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ABSTRACT

The Title IX/Sex Equity training model is designed to assist education personnel and interested citizens in the implementation of Title IX of the Education Amendments of 1972 and the attainment of sex equity in education. This manual provides session outlines, activities, and materials for facilitators and participants in a 3 1/2 to 4 hour Title IX/sex equity workshop. Objectives of the session are (1) to review the requirements of the regulation to implement Title IX of the Education Amendments of 1972 and to give participants an opportunity to assess their own understanding of Title IX requirements; (2) to inform participants about the significance and the structural components of Title IX grievance procedures; and (3) to increase participants' understanding and skills in identifying Title IX violations and in formulating appropriate remedial actions. Accordingly, the manual provides instructions for a group session comprising three activities: (1) "Title IX--The Requirements of the Implementing Regulation"; (2) "The Title IX Grievance Process: Developing an Internal Grievance Procedure"; and (3) "Implementing the Grievance Process: What Constitutes Discrimination?" Each activity consists of a lecture, individual activities, small group activities, and a large group discussion. 15 participant worksheets are included, along with 5 appendixes providing various resources for the workshop. (TE)

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TRAINER MANUAL

TITLE IX–THE REGULATION AND THE GRIEVANCE PROCESS

Prepared by
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April, 1979

Adapted/Adopted
From materials prepared for the
Council of Chief State School Officers'
Title IX Equity Workshops Project
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PREFACE

The Title IX/Sex Equity training model is designed to assist education personnel and interested citizens in the implementation of Title IX of the Education Amendments of 1972 and the attainment of sex equity in education. The training model was utilized and tested in twenty regional workshops by the Council of Chief State School Officers' (CCSSO) Title IX Equity Workshops Project. This project was funded under contract 300-76-0456 with the Women's Program Staff, U.S. Office of Education.

The training model is designed for all persons who have the opportunity to work with any persons interested in Title IX. Workshop sessions are provided for the following groups:

Administrators, Title IX coordinators, and school board members
Instructional personnel
Counseling and pupil services personnel
Physical activities personnel (physical education and athletics staff)
Community group members

The session outlines and materials were originally developed by Martha Matthews and Shirley McCune. Martha Matthews' time was partially supported by funds provided by the Ford Foundation. Shirley McCune and Martha Matthews are co-editors of the training model.

Adaptations in the training materials for Colorado school districts were made by Dr. Martha Fair, Sex-Equity Supervisor for the Colorado Department of Education, and Linda S. Doyle, Consultant. The art work and cover design were done by John Rainey, Media Consultant. Annette Ryan typed and edited the manuals.

Title IX Sex Equity Equity Staff
Equal Education Services Unit
Colorado Department of Education
April, 1979

SESSION SPECIFICATIONS

Session Participants:

Local education agency staff, including administrators, Title IX coordinators, instructional staff, counselors and student personnel workers, vocational education personnel, and physical education and athletics staff; board members; and representatives of community groups.

Session Objectives:

To review for participants the requirements of the regulation to implement Title IX of the Education Amendments of 1972.

To provide participants an opportunity to assess their own understandings of Title IX requirements by sharing questions and answers with others.

To provide participants with an understanding of the significance of Title IX grievance procedures as a method for resolving complaints of sex discrimination and for monitoring Title IX compliance.

To provide participants with information regarding the structural components or characteristics of an effective grievance procedure and an opportunity to evaluate the structure of several sample grievance procedures.

To increase participants' understandings of and skills related to their own potential responsibilities for grievance problem solving.

To provide participants an opportunity to increase their skills in identifying Title IX violations and in formulating corrective or remedial actions appropriate to these violations through the analysis of sample Title IX grievances.

Time Required:

3 1/2 - 4 hours

(See page ix, "How can the workshop activities and sequence be adapted to fit shorter periods of time?")

Facilitators Required:

Although the session may be conducted by a single person, it is preferable in most cases to share responsibilities among several persons (female and male) who possess both subject matter expertise and group process skills, and who represent racial-ethnic diversity.

Group Size:

Flexible

Facilities Required:

Meeting room to accommodate expected number of participants; moveable tables and chairs to facilitate small group work.

Equipment and Supplies Required:

Overhead projector and transparencies, chalkboard and chalk, or newsprint and marker; pencils for each participant.

Materials Needed:

For participant use:

- Checklist for Evaluating the Content of Grievance Procedures (Participant Worksheet 1)
- Harper Valley School District Title IX Grievance Procedure (Participant Worksheet 2)
- Case Study for Analysis #1 (Participant Worksheet 3)
- Case Studies for Analysis, #2-#5 (Participant Worksheets 4-7)
- Sample Title IX Grievances (Participant Worksheets 8-15)
- Title IX of the Education Amendments of 1972--A Summary of the Implementing Regulation (Appendix A)
- Components of a Grievance Procedure (Appendix B)
- Anyone's Guide to Filing a Title IX Complaint (Appendix C)
- Definitions (Appendix D)
- Answers to Case Study Discussion Questions (Appendix E)
- Sample Title IX Grievances--Analyses (Appendix F)
- Workshop Evaluation Sheet

For facilitator use:

Charts on newsprint, acetate, or chalkboard:

"Components of a Grievance Procedure"

"Definitions"

Facilitator Preparation Required:

The facilitator(s) should:

Thoroughly review this outline and all participant materials.

Thoroughly review the following supportive materials:

"Title IX of the Education Amendments of 1972: Cracking the Glass Slipper", Project on Equal Education Rights, ($5.00) PEER, 1029 Vermont Ave., N.W., Suite 800, Washington, D.C., 20005

"Complying with Title IX: The First Twelve Months", Shirley McCune and Martha Matthews, Resource Center on Sex Roles, 400 North Capitol, N.W., Suite 379, Washington, D.C., 20001. 202/624-7757

"Complying With Title IX: Implementing Institutional Self-Evaluation", Martha Matthews and Shirley McCune (those sheets in each section headed: Self-Evaluation: An Outline), Government Printing Office.

"Title IX Grievance Procedures: An Introductory Manual", Martha Matthews and Shirley McCune (particularly pages 13-48), Government Printing Office.

Review suggested lectures and adapt them to accommodate unique group needs or facilitator(s) style(s):

"Opening Comments"	5 minutes
"A Summary of the Title IX Regulation"	20 minutes
"The Function and Structure of Title IX Grievance Procedures"	20 minutes
"Implementing Title IX Grievance Procedures"	15 minutes

Prepare charts (on newsprint, acetate transparency, or chalkboard)

Suggestions:

How can the workshop activities and sequence be adapted to fit shorter periods of time?

Although the session outline is designed for implementation in a four-hour period, it is recognized that it may be necessary to modify the session for implementation in a shorter period of time. When this is necessary, the facilitator(s) should review the objectives of each suggested activity carefully before making a decision about which activities would be most appropriate. If this modification is necessary, the facilitator(s) should consider the following:

A. Carefully review the sequence and the build-up activities provided in the session outline. Each session outline has been developed to include each of the following components:

Needs assessment activity/exercise--Session outlines begin with an introductory activity which can involve the group in the session, allow individuals to express initial concerns and provide the facilitator with general information about the perceptions and experience of the group. This initial experience is a key method of judging the specific needs of the group and estimating the optimal placing of the session activities.

Cognitive activities--Each session outline includes a lecture(s) to introduce new concepts and activities. These are designed to increase participants' understanding of particular problems related to sex equity and of the steps to be taken and the principles to be followed in achieving sex equity. The amount of information provided in a lecture can be reduced if the group has had previous exposure to the concepts being presented. Even with experienced groups, however, it is useful to provide a summary of the key points included in the lecture to ensure that all members of the group have a common frame of reference for subsequent activities.

Experiential activities--These activities provide an opportunity for participants to apply the concepts presented in cognitive activities to situations in educational practice. The purpose of these activities is to help participants assess for themselves the implications of the information presented for day-to-day activities.

Skills practice activities--Each session outline includes a number of activities which are designed to give participants an opportunity to practice some of the skills which are necessary for the application of sex equity principles and to obtain immediate feedback regarding their efforts.

Action-planning activities--Each session outline encourages participants to begin to identify specific steps which they or their education agency can take to promote full implementation of Title IX and/or to attain sex equity in their activities. These action-planning steps are crucial to the application of the information provided in the workshop package. They should not be eliminated and, in fact, wherever possible, it would be desirable to expand the amount of time devoted to action planning. This is particularly relevant when participants work together in the same education agency.

In most cases, it is desirable to reduce the amount of time devoted to each of the various types of activities provided rather than to omit any of the major components of the session outline.

B. Provide participants with reading materials prior to the workshop session.

If the workshop time is limited, it may be possible to reduce the amount of time devoted to the workshop activities by providing participants with materials which can be read prior to the implementation of the workshop. If the facilitator believes that this is desirable, a summary of the information provided in the lecture or information sheet may be distributed to participants prior to the workshop.

C. Reduce the amount of time spent on exercises and worksheets.

One way the timelines for the session can be cut is to ask the participants to consider only a limited number of cases or situations presented in their worksheets, suggesting that others be completed some time after the workshop. (If this is done, the facilitator should make certain to explore those items selected for use in the group in sufficient detail to clarify for participants the basic principles reflected in the worksheet.) In all instances, the facilitator should emphasize ways in which the participant materials may be used after the workshop.

What guidelines should be observed by facilitators throughout the workshop?

Workshops dealing with sex equity often involve participants in a questioning of some of their earliest learnings and most basic beliefs and assumptions. Individuals dealing with these issues may have negative feelings about changing roles of males and females in our society and experience fear or anger about sex equity efforts in education. It is critical that workshop facilitators understand that these reactions are to be expected and how to handle them in positive ways. Some suggestions for dealing with possible resistance or rejection of the ideas covered in the workshop are outlined below.

Workshop facilitators should:

A. Remember that change in knowledge, attitudes, and skills requires time and continued support. Each person must move through a process of exploring, understanding, and acting on new ideas before they can be accepted. Rejection of ideas presented in the workshop should not be interpreted as a personal rejection of the presenter.

B. Work to provide continuing support to participants even when they are met by disagreement and/or resistance. Responses to be avoided by workshop personnel include:

Defensiveness--the expression through words or behaviors that a facilitator or resource person feels as if an attack has been made against her/his personal ability or adequacy. Workshop personnel should try to maintain an open attitude and deal with the ideas presented by the participant rather than the internal feelings that these ideas may create.

Rejection of the group--the categorization of an individual or group as "hopeless". One of the ways that facilitators may deal with persons who disagree is to reject them. It is important that workshop leaders maintain communication with all participants and continue to work through the feelings and ideas presented.

Future predictions--statements to an individual or the group such as, "I'm sure you'll eventually see it my way". Although it is quite likely that many who reject ideas presented in workshops will change over a period of time, it is not helpful to dismiss the issues being considered by making future predictions.

Avoidance of the issues--dropping relevant controversial issues before they have been considered. Avoiding open consideration of possible implications of the Title IX regulation through a comment such as, "There's really no need for major changes in most programs" does not contribute to participant learning or problem solving. Workshop facilitators should anticipate some of the controversial questions or concerns which are likely to be raised and be prepared to deal with them, if only by admitting uncertainty and a willingness to help participants obtain assistance from other sources.

Overcontrol of the participant group--pressing the group ahead regardless of their present needs or ability to deal with some of the issues. Overscheduling a workshop agenda so that time is not available for clarification questions or for consideration of the implications of the information in small group discussion is one way to overcontrol the participant group. Workshop plans must include time to ensure that participants have the opportunity for initial exploration and evaluation of the information presented.

C. Work to maintain a climate where participants' questions, feelings, and opinions can be expressed and considered. Maintain a nonjudgmental approach toward the expression of feelings or opinions which differ from those being expressed in the workshop.

D. Provide participants with concrete information and materials whenever possible. Much of the resistance to accepting change occurs when people do not understand the rationale for change and the specific steps which must be taken in implementing change. It is essential that participants be given opportunities to identify specific directions for change, to develop the necessary skills for change, and to receive support and assistance during this process.

RESOURCES AVAILABLE
from the Colorado Department of Education

Available for Loan from the Colorado Department of Education:

FILMSTRIPS

"American Women Search for Equality", Current Affairs, March, 1973

* "Cinderella is Dead!", National Education Association

"Identity Female: A Program Review, Dun-Donnelly Publishing Corporation, 1975

* "Title IX in the Schools", Claremont Educational Resources

"The Labels and Reinforcement of Sex Role Stereotyping", National Education Association

FILMS

"Sex Role Development", McGraw-Hill, 23 minutes (color)

** "An Equal Chance Through Title IX", 25 minutes

Available for Loan from the Colorado State Library:

FILMS

"Choosing Changes", Agency for Instructional Television, 15 minutes (color)

"Different Folks", Agency for Instructional Television, 15 minutes (color)

"Prejudice: Causes, Consequences, Cures", Contemporary/McGraw-Hill, 1977, 23 minutes (color)

For information about borrowing any of the materials listed, contact:

Sex Equity Staff
Colorado Department of Education
201 East Colfax Avenue
Denver, Colorado 80203
(303) 839-2166

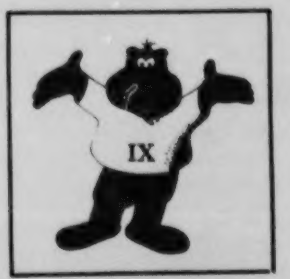
RESOURCES AVAILABLE

(continued)

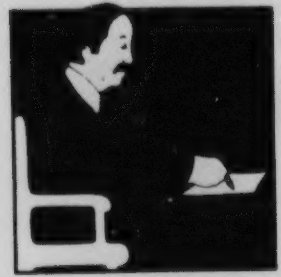
*To be used with the training materials entitled, "Title IX for Sex Equity"

**To be used with the training materials entitled, "Achieving Sex Equity in Physical Education" and "Achieving Sex Equity in Athletics"

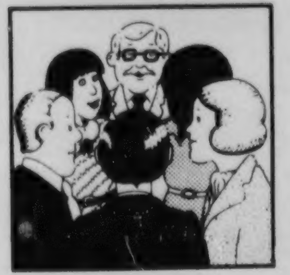
KEY TO DRAWINGS



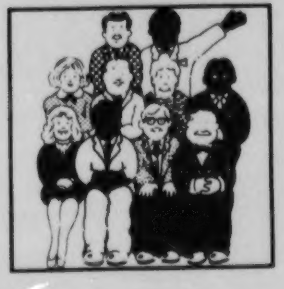
DRAWING 1: HIP-O-NINER depicts a hippopotamus cheerleader wearing a "IX" on his jersey. This drawing accompanies any page with the heading OPENING COMMENTS or PROCEDURE. It also accompanies the sections on "Suggested Lecture" and "Workshop Evaluation".



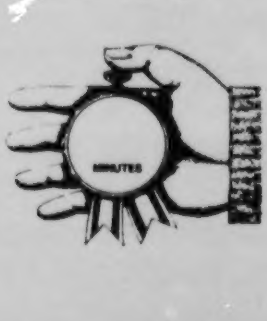
DRAWING 2: INDIVIDUAL ACTIVITY depicts a man writing alone at a desk. This drawing is displayed on pg. 13.



DRAWING 3: SMALL GROUP DISCUSSION depicts six people (of both sexes and several ethnic backgrounds) standing in a circle. This drawing is displayed on all the Participant Worksheets 1-15. It also accompanies the sections on "Small Group Discussion" and "Small Group Activity".



DRAWING 4: LARGE GROUP DISCUSSION depicts ten people (of both sexes and several ethnic backgrounds) sitting or standing in three rows. This drawing accompanies the sections on "Large Group Discussion", "Large Group Role Play and Discussion", and "Questions and Answers".



DRAWING 5: TIME DESIGNATION depicts a male hand holding a stop watch which displays the number of minutes needed for each activity. This drawing accompanies the first page of each activity, as well as the heading OPENING COMMENTS on pg.

SESSION AGENDA

Opening Comments (5 minutes)

Activity 1: Title IX--The Requirements of the Implementing Regulation

A. Lecture: A Summary of the Title IX Regulation (20 minutes)
B. Individual Activity (5 minutes) and Small Group Discussion: Title IX Questions and Answers (15 minutes)
C. Large Group Discussion (10 minutes)

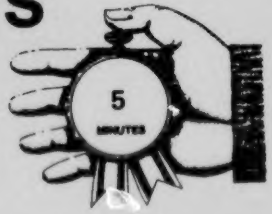
Activity 2: The Title IX Grievance Process: Developing of an Internal Grievance Procedure

A. Lecture: The Function and Structure of Title IX Grievance Procedures (20 minutes)
B. Questions and Answers (15 minutes)
C. Small Group Activity: Evaluating A Sample Title IX Grievance Procedure: Harper Valley School District Title IX Grievance Procedure (20 minutes)
D. Large Group Discussion (10 minutes)

Activity 3: Implementing the Grievance Process: What Constitutes Discrimination?

A. Lecture and Discussion: Implementing Title IX Grievance Procedures (15 minutes)
B. Large Group Role Play and Discussion: Case Study #1 (25 minutes)
C. Small Group Activity: Case Studies for Analysis: #2-#5 (25 minutes)
D. Large Group Discussion (10 minutes)
E. Small Group Activity: Evaluating Sample Title IX Grievances (35 minutes)
F. Large Group Discussion (10 minutes)
G. Workshop Evaluation (5 minutes)

OPENING COMMENTS



Purposes of the Activity:

To introduce any facilitator(s) who may be new to participants

To provide participants with an overview of the content and activities of this session

Materials Needed:

For participant use:

Session Agenda (prepared by the Trainer for this session

Session Objectives (Participant Workbook)

For facilitator use:

None

Facilitator Preparation Required:

The facilitator(s) should:

Thoroughly review the total session outline and participant materials

Review suggested opening comments and adapt them to accommodate unique group needs or facilitator style

PROCEDURE

The facilitator and any persons assisting with this session should be introduced if they have not been present in the group previously. Any housekeeping information relevant to this session may also be discussed at this time. (Location of bathrooms, breaks, etc.)

Suggested comments

"We will be working during this session to increase our knowledge of Title IX requirements and our ability to interpret them in a variety of situations. This familiarity with the Title IX regulatory requirements will enable us to work more effectively in applying Title IX through our individual professional roles within the education system.

"We will begin this session with a review of the Title IX regulation. For some of you, this may be familiar information. If so, you may wish to check your understandings with the explanations provided in the review. For others of you, the information presented may be new. If you have questions about the information presented, please hold them and make note of them for use during the activity after the review."

At this point the facilitator should ask for and answer any general questions participants may have about the session content or format.

ACTIVITY

I

TITLE IX -- THE REQUIREMENTS OF THE IMPLEMENTING REGULATION

Activity Agenda:

A. Lecture: A Summary of the Title IX Regulations (20 minutes)
B. Individual Activity (5 minutes) and Small Group Discussion: Title IX Questions and Answers (15 minutes)
C. Large Group Discussion (10 minutes)

Purposes of the Activity:

To review with participants the specific requirements of the regulation to implement Title IX of the Education Amendments of 1972 and related clarifying memoranda and amendments:

The procedural requirements for compliance

The admissions requirements

The requirements regarding the treatment of students

The employment requirements

To provide participants with the opportunity to assess their own understandings of Title IX requirements by sharing questions and answers with other participants.

Materials Needed:

For participant use:

Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation (Appendix A)

For facilitator use:

None

Facilitator Preparation Required:

The facilitator(s) should:

Thoroughly review this outline and all participant materials

Thoroughly review the following supportive materials:

"Title IX of the Education Amendments of 1972: Cracking the Glass Slipper", Project on Equal Education Rights, ($5.00) PEER, 1029 Vermont Ave., N.W., Suite 800, Washington, D.C., 20005

"Complying with Title IX: The First Twelve Months", Shirley McCune and Martha Matthews", Resource Center on Sex Roles, 400 North Capitol, N.W., Suite 379, Washington, D.C., 20001. 202/624-7757

"Complying With Title IX: Implementing Institutional Self-Evaluation", Martha Matthews and Shirley McCune (those sheets in each section headed: Self-Evaluation: An Outline), Government Printing Office.

"Title IX Grievance Procedures: An Introductory Manual", Martha Matthews and Shirley McCune (particularly pages 13-48), Government Printing Office.

Review the suggested lecture and adapt it to accommodate unique group needs or facilitator style

PROCEDURE

A. Lecture– A Summary of the Title IX Regulation (20 minutes)

The purpose of this lecture is to review for participants the requirements of the Title IX regulation and related memoranda, amendments, and case law. Although many participants may have heard such reviews before, some may not have, and others may have developed misconceptions based on past information. It is important for these reasons that all participants be exposed to this review in order to establish a common understanding and frame of reference for the activities to follow in the rest of the workshop.

A suggested lecture is provided below. It is tied closely to the actual provisions of the regulation, but facilitators are encouraged to provide interpretive information or concrete examples which are relevant to the experience of the participants.

Suggested Lecture

"Title IX was enacted in 1972, after much Congressional testimony and discussion. The regulation to implement Title IX was issued in 1975, after still more testimony documenting the nature of sex bias and discrimination in education policies, practices, and programs. The regulation to implement Title IX is very specific in many of its provisions; this specificity reflects both the availability of data documenting sex bias and the years of experience gained by HEW's Office for Civil Rights (the office responsible for the regulation and for Federal enforcement of Title IX) in the implementation and enforcement of other Federal antidiscrimination requirements.

"Title IX states that:

> 'No person...shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.'

The provisions of its implementing regulation are organized into four major sections:

1. A procedural section which specifies general definitions and five basic compliance procedures required of all education agencies and institutions receiving Federal funds. These requirements are an important feature of the Title IX regulation.
2. An admissions section which delineates discriminatory policies and practices which are prohibited in the admission of students to specified educational programs. This section applies to schools of vocational education and to most postsecondary education institutions.
3. A treatment of students section which outlines requirements for nondiscrimination in students' access to courses, student policies' counseling and guidance practices, physical education and competitive sports, facilities, financial aid, extracurricular activities, etc.
4. An employment section which specifies prohibited forms of discrimination in the employment policies and practices of education institutions and agencies receiving Federal funds.

"In Appendix A of your participant notebook you will find a copy of 'Title IX of the Education Amendments of 1972: A Summary of the Implementing Regulation'. We are going to review briefly those major provisions of the regulation which are of most relevance to local education agencies; you may find it useful to follow along in the 'Summary', which provides more detailed information.

Procedural Provisions:

"There are five procedural steps which were to have been implemented by July 21, 1976.

1. Notification of policy of Title IX compliance and nondiscrimination on the basis of sex

   Each institution or agency covered by the Title IX regulation is required to develop a policy statement of Title IX compliance and nondiscrimination on the basis of sex and to make notification of such policy to employees, students, parents of elementary and secondary students, sources of referral of applicants for employment, labor organizations, and organizations holding contracts for services. Initial notification was required by October, 1975, but notification is an ongoing responsibility. This policy statement should appear in such official documents as course announcements, job announcements, student handbooks, requests for referral of applicants, etc.

2. Designation of employee responsible for coordination of compliance efforts

   Each education institution or agency is required to designate an employee with responsibility for coordinating its Title IX compliance efforts. Ultimate accountability for agency/institutional compliance with Title IX rests with the chief administrative officer, but the regulation requires the designation of an employee with specific responsibilities for coordination of efforts toward implementation of the regulation. In many instances, it is advisable that two persons be designated to coordinate two areas of activity--one person with responsibilities for compliance with the employment requirements and one person with responsibilities for compliance with the student treatment portion of the regulation.

3. Development of a grievance procedure for the handling of discrimination complaints

   Each recipient of Federal funds must develop an internal grievance procedure for the handling of complaints of discrimination. This requirement covers only those complaints related to possible noncompliance with Title IX, but in many cases it is advisable to develop or extend such a procedure for the handling of complaints of race discrimination,

since this is also prohibited by Federal laws.

There is little specification of requirements for the grievance procedure beyond the requirement that it provide for prompt and equitable resolution of complaints.

It must be pointed out that the existence of an internal grievance procedure does not limit the possibility of the direct filing of complaints with the Office for Civil Rights without use of the internal procedure or before, during, or after use of the internal procedure.

Both the internal grievance process and direct filing of a complaint will be dealt with in more detail in this session.

4. Completion of an institutional self-evaluation

Institutional self-evaluation is basically a required self-assessment directed at the identification and correction of overt and covert forms of sex discrimination which violate Title IX requirements. The institutional self-evaluation process consists of three basic parts:

Assessment and evaluation of present policies and practices for compliance with Title IX requirements

Modification of policies and practices found to be discriminatory

Development of remedial steps to be taken to eliminate possible effects of past discrimination

This process was to have been completed by July 21, 1976. A description of all modifications and remedial steps taken must be kept on file for a three-year period.

5. Submission of a compliance assurance form to the Office for Civil Rights

All education agencies and institutions receiving Federal funds are required to submit assurances of Title IX compliance to the Office for Civil Rights as

a condition of eligibility for Federal funds. Form 369 was developed for this purpose, and copies were mailed to all recipients. The initial deadline for submission of the form was September 30, 1976; all education agencies whose Form 369 (or the revised Form 639A) is not on file with OCR face possible termination of Federal aid and elimination from competition for Federal grants and projects.

Admissions Provisions:

"The second section of the regulation is the admissions section. It applies only to institutions of vocational education and to specificed post-secondary institutions. No student may, on the basis of sex, be denied admission or be subjected to discrimination in admission by any institution of vocational education or by any specified postsecondary institution. Because the majority of elementary-secondary institutions are not covered by this section of the regulation, it will not be discussed further here. Specific prohibitions are listed in your 'Summary'.

Treatment of Students Provisions:

"The treatment of students provisions of the regulation cover nearly every aspect of student treatment and student programs. In general, the regulation requires that:

> 'No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training, or any other education program or activity operated by a recipient.'

"It specifically provides that education institutions or agencies may not, on the basis of sex:

Provide different aid, benefits, or service;

Deny any such aid, benefit, or service;

Subject any person to separate or different rules of behavior, sanctions, or other treatment;

Discriminate against any person in the application of any rules of appearance;

Provide significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefits, or services to students or employees;

Limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

"These prohibitions are quite broad; it is possible that the courts may, in the future, interpret them in such a way as to extend the detailed prohibitions against differential treatment which are currently contained within this section of the regulation.

"These detailed prohibitions cover discrimination in student use of facilities, access to course offerings, counseling and counseling materials, financial assistance, health and insurance benefits or services, athletics, and treatment based on marital or parental status.

"Examples of some of the provisions of this section of the regulation include the following:

Course offerings

Course offerings or other education activities may not be provided separately on the basis of sex, nor may participation in course offerings and activities be refused or required on such basis. Included are health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses.

With respect to physical education courses, institutions are required to develop coeducational programs as soon as possible, but in no event later than July 21, 1976 at the

elementary school level, and July 21, 1978 at the secondary and post-secondary school levels.

Students may be grouped by ability in physical education classes as long as ability is assessed by objective standards developed and applied without regard to sex.

Students may be separated by sex within physical education classes during participation in contact sports.

Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted separately for males and females.

Recipient institutions may make requirements based on vocal range or quality which result in choruses of one or predominantly one sex. (OCR has since ruled that schools may maintain single sex choruses if they are provided to students of both sexes and if they result from the application of these criteria.)

Schools of vocational education

A local education agency may not, on the basis of sex, exclude any person from admission to any institution of vocational education or any other school or educational unit it operates unless it otherwise makes available to such person, according to the same policies and criteria or admission, courses,services, and facilities comparable to each course, service, and facility offered in or through such schools.

Counseling and counseling materials

Institutions may not discriminate on the basis of sex in the counseling or guidance of students or applicants.

They may not use different testing or counseling materials for students on the basis of sex or use materials which permit or require differential treatment of students unless such materials cover the same occupations and interest areas and their use is shown to be essential to eliminate sex bias. Recipients must develop and use internal procedures for ensuring that counseling and testing materials do not so discriminate.

When a recipient finds that a particular class contains a substantially disproportionate number of individuals of one sex (for example, that 80% of the students in an advanced math class are male), the recipient must take action to ensure that this disproportion is not the result of sex discrimination by counselors or in counseling materials.

Employment assistance to students

Institutions may not provide services or assistance in the procurement of student employees to agencies or individuals which discriminate on the basis of sex in their employment practices.

Health and insurance benefits and services

Institutions may not discriminate on the basis of sex in providing medical, hospital, accident or life insurance benefits, services, policies, or plans to any students.

Marital or parental status

A recipient may not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. No student may be discriminated against or excluded from an education program or activity on the basis of pregnancy or related conditions unless the student requests voluntarily to participate in a separate portion of the program or activity.

All institutions/agencies must comply as soon as possible; elementary schools must be in full compliance with this section by July 21, 1976; secondary and post-secondary schools by July 21, 1978.

Facilities

Separate toilet, locker room, and shower facilities may be provided on the basis of sex; those provided for one sex must be comparable to those provided for the other.

Employment Provisions:

"The last section of the regulation covers the employment policies and practices of the education institution or agency. Its provisions are closely related to Equal Employment Opportunity Commission (EEOC) guidelines issued under Title VII of the Civil Rights Act. Specifically, discrimination is prohibited in:

> Access to employment, including recruitment policies and practices; advertising; application procedures; testing and interviewing practices.
>
> Hiring and promotion, including selection practices; application of nepotism policies; demotion, lay-off, termination; tenure.
>
> Compensation, including wages and salaries; extra compensations.
>
> Job assignments, including classification and position descriptions; lines of progression; seniority lists; assignment and placement.
>
> Leaves of absences, including leaves of temporary disability; childbearing leave and related medical conditions.
>
> Fringe benefits, including insurance plans; retirement plans; vacation time; travel opportunities; selection and support for training.

Labor Organization Contracts:

Later amendments to Title IX provide additional specifications. Amendments relevant to local education agencies function to:

Exclude activities held in connection with Boys' Nation, Girls' Nation, Boys' State, and Girls' State from coverage by Title IX.

Specify that Title IX does not preclude father-son or mother-daughter activities at an educational institution, provided that these opportunities are reasonably comparable for students of both sexes.

Prevent districts from asking prospective students or employees for their marital status.

Excuse on the basis of religious beliefs, student participation in certain co-educational activities.

"In addition to modification through the amendment process, Title IX requirements are also subject to interpretation through OCR rulings and through court decisions.

"One such court decision which has been the subject of recent discussion involves the case of Romeo Community Schools v. U.S. Department of Health, Education, and Welfare. In this case, the Romeo Community Schools sought to stop HEW from enforcing the Title IX regulation provisions regarding employee pregnancy and maternity leave. Although the opinion issued by U.S. District Judge Feikens concluded that Title IX was not intended to affect any of the employment practices of recipients, the judgment finally handed down rendered invalid only that section of the Title IX regulation dealing with marital and parental status (including pregnancy) of employees. Furthermore, the Office for Civil Rights has announced its decision to continue enforcement of Title IX regulatory requirements related to employment (including those related to pregnancy) as usual outside the jurisdiction of the U.S. District Court for the Eastern District of Michigan.

"A new law banning discrimination against women workers because of pregnancy, childbirth, or related medical conditions, took effect October 31, 1978.

"The statute overturns a 1976 Supreme Court decision which held that excluding pregnancy-related benefits from health insurance plans did not amount to sex discrimination barred under Title VII of the 1964 Civil Rights Act.

The amendment covers hiring, promotion, seniority rights and fringe benefits such as health insurance and sick leave. The law makes it illegal to fire a pregnant woman or to force her to go on sick leave at a specific time if she is able to continue working."

The facilitator should conclude the lecture by again requesting participants to hold their questions for use in the activity immediately following the lecture.

B. Individual Activity: Title IX Questions and Answers (5 minutes)
Small Group Discussion (15 minutes)

The purpose of this small group discussion and answer activity is to provide participants with an opportunity to raise questions regarding Title IX requirements and to test their own understandings of, and ability to communicate clearly regarding, these requirements by responding to the questions of others.

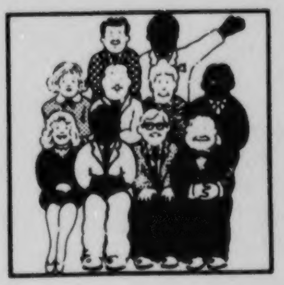
The facilitator should introduce this activity with comments such as the following:

"For some of you, this may be your first exposure to Title IX requirements, while others of you may have heard the regulation summarized many times. Many of us, regardless of our familiarity with the words of the Title IX regulation, may not always feel comfortable applying these words to the particular practical situations we encounter.

"In order to test our understandings of Title and to obtain assistance with our questions, it is useful to discuss them with others. In fact, one of the most important functions we can perform as we return to our schools and communities, is to answer the questions and clarify the misunderstandings of others--our colleagues and friends--regarding Title IX requirements. For this reason, we would like you to spend the next few minutes in small groups, taking turns raising your questions regarding Title IX and answering those raised by others if you are able.

"Please form small groups of four persons each. Spend approximately five minutes working individually to write down any questions you have related to Title IX requirements. Then share your questions with the group and try to answer those raised by others. As you discuss in your small groups, make sure that each person has an opportunity to ask at least one question. Make note of any questions which you feel are not answered satisfactorily in your small group; you will have a chance to ask them again in the total group at the end of this activity. You may wish to refer to your summary of the regulation during your discussions. You will have approximately 15 minutes in your small groups, so remember to keep things moving."

Participants should then be asked to form their small groups and be allowed five minutes to write their questions individually. Small groups should then share questions and answers for 15 minutes. During this time, the facilitator(s) should circulate among the small groups to identify any questions which are "resolved" incorrectly. These should be raised later in the total group if they are not raised by participants. The facilitator should avoid becoming involved in lengthy substantive discussions with the group members; s/he should take care to let participants respond to the questions raised.



C. Large Group Discussion (10 minutes)

After 15 minutes of small group discussion, participants should come together in the total group to discuss any questions left unresolved. About ten minutes should be provided for this activity. During this time, questions beyond the knowledge or authority of the facilitator may be raised, as may questions which are hostile or argumentative. It is important that facilitators not become flustered by such questions. Some of the points to be remembered by facilitators at this time are:

Facilitators should limit responses to relevant interpretive or factual information without becoming drawn into arguments or emotional exchanges.

If a facilitator does not know the answer to a question, s/he should admit it and either indicate a willingness to try to provide that information at a later date, or suggest a source for further information.

If a facilitator meets resistance to any of the regulatory requirements, s/he should avoid being drawn into a position of becoming defensive.

When the time for this activity has expired, the facilitator should close the activity by explaining to participants that they will have an opportunity to assess the ability to apply Title IX requirements to particular situations in an activity on grievance resolution later in this session and they will be exploring those Title IX requirements most directly related to their own job functions.

(If there appear to be many questions on Title IX remaining at the close of the total group processing, the facilitator may wish to invite those persons to remain to discuss their questions. If this opportunity is provided, the facilitator should ensure that there is a knowledgeable resource person available to those who remain.)

ACTIVITY 2

THE TITLE IX GRIEVANCE PROCESS -- DEVELOPING AN INTERNAL GRIEVANCE PROCEDURE

Activity Agenda:

A. Lecture: The Function and Structure of Title IX Grievance Procedures (20 minutes)
B. Questions and Answers (5 minutes)
C. Small Group Activity: Evaluating A Sample Title IX Grievance Procedure: Harper Valley School District Title IX Grievance Procedure (20 minutes)
D. Large Group Discussion (10 minutes)

Purposes of the Activity:

To provide participants a frame of reference for understanding the significance of Title IX grievance procedures as a method for resolving complaints of sex discrimination and for monitoring Title IX compliance

To provide participants with information regarding the structural components or characteristics of effective grievance procedures

To provide participants with an opportunity to evaluate a sample Title IX grievance procedure

Materials Needed:

For participant use:

Checklist for Evaluating the Content of a Grievance Procedure (Participant Worksheet 1)

Harper Valley School District Title IX Grievance Procedure (Participant Worksheet 2)

Components of a Grievance Procedure (Appendix B)

For facilitator use:

A chart (on newsprint, chalkboard, or acetate transparency)* containing the following information:

Components of a Grievance Procedure

I. Provisions related to the initiation of grievances:

   A. The definition of who may grieve

   B. The definition of what shall constitute a grievance

   C. The stipulation of time limits for the initiation of grievances

   D. The stipulation of the manner or form in which grievances shall be initiated

   E. The specification of any assistance available to grievants for the initiation/presentation of a grievance

II. Provisions related to the processing of grievances:

   A. The number and levels of steps for grievance processing

   B. The form of grievance presentation or processing each step

   C. Requirements for notification of involved parties at various phases of the grievance process

   D. Timelines governing the various actions or steps within the grievance process

   E. Procedures which shall govern the conduct of grievance meetings or hearings at any step of the grievance process (e.g., the minimum time allocated for the grievance hearing; the time allocated to each party; the right of each party to representation; the right to present witnesses and evidence; the right to question opposing witnesses; the moderation of hearings; the right to confidential or public grievance meetings or hearings; procedures for recording the meeting or hearing)

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*This "chart" may require several sheets of newsprint or several transparencies; unless a large chalkboard is available, it is probably desirable to use newsprint.

F. Requirements for the filing or submission of written information by the grievant or the respondent

G. The specification of the forms which grievance decisions shall take at each step

H. The roles and/or selection of persons involved in grievance processing

III. Provisions related to the basic procedural rights of the parties to the grievance:

A. The grievant's right of appeal

B. The right of all parties to impartial grievance decisionmakers

C. The access of grievants to relevant agency/institutional records

D. Protection of grievants from harassment and retaliation

E. Confidentiality of grievance proceedings

Facilitator Preparation Required:

The facilitator(s) should:

Thoroughly review this outline and all participant materials

Thoroughly review the following materials:

"Title IX of the Education Amendments of 1972: Cracking the Glass Slipper", Project on Equal Education Rights, ($5.00) PEER, 1029 Vermont Ave., N.W., Suite 800, Washington, D.C., 20005

"Complying With Title IX: The First Twelve Months", Shirley McCune and Martha Matthews, Resource Center on Sex Roles, 400 North Capitol, N.W., Suite 379, Washington, D.C., 20001. 202/624-7757

"Complying With Title IX: Implementing Institutional Self-Evaluation", Martha Matthews and Shirley McCune (those sheets in each section headed: Self-Evaluation: An Outline), Government Printing Office.

"Title IX Grievance Procedures: An Introductory Manual", Martha Matthews and Shirley McCune (particularly pages 13-48), Government Printing Office.

Review the suggested lecture and adapt it to accommodate unique group needs or facilitator style.

Prepare chart or transparency needed for the activity:

Components of a Grievance Procedure

PROCEDURE

A. Lecture--The Function and Structure of Title IX Grievance Procedures (20 minutes)

The purpose of this lecture is to introduce participants to the continuing significance of the Title IX grievance procedure as a tool for equity which can benefit students, employees, and the local education agency, and to identify for participants some of the components in an effective grievance procedure. The lecture suggested in the following pages is highly summarized in its coverage of a broad variety of complex issues. Facilitators may choose to emphasize some points and de-emphasize others to fit the needs and concerns of the group. Facilitators should ensure that they are thoroughly familiar with the Manual which supports this outline in order that they may respond to the variety of questions which may arise with regard to the lecture. Before beginning the lecture, the facilitator should make sure that the chart "Components of a Grievance Procedure" is displayed for easy reference by participants.

Suggested Lecture

"We have talked about the procedural requirements for Title IX compliance. One of these requirements--the maintenance of an internal Title IX grievance procedure--involves all of us in continuing Title IX monitoring and implementation. The Title IX regulation requires that education agencies develop and maintain an internal grievance procedure for the resolution of Title IX complaints of sex discrimination. The determination of the specific procedure to be used is left to the discretion of the agency. The only standard for the grievance procedure which is specified is that it must provide for prompt and equitable resolution of student and employee complaints.

"A Title IX grievance procedure may be defined as a method by which an individual or group may express a complaint or a grievance to an agency alleged to be violating the Title IX regulation and receive a fair hearing and a resolution of the grievance without fear of reprisal. The procedure must function to determine whether or not a violation of the regulation has occurred, and if so, it must also determine the appropriate means for correcting and remedying the violation.

"Participation in the grievance process is both an option of and the ongoing responsibility of every staff member. For the individual staff member it provides:

> A method for the presentation and resolution of grievances of sex discrimination which may have denied the staff member or other employees access to equal opportunity;
>
> A method for the identification and resolution of grievances regarding sex discrimination in the treatment of students;
>
> A structure within which various individuals or groups within the agency may discuss and clarify issues relating to sex discrimination;
>
> A process whereby staff members may be involved in the initiation, implementation, and monitoring of constructive change efforts.

"An effective grievance procedure may similiarly provide a number of benefits to the local education agency:

It provides the agency with a method for identifying and correcting noncompliance which may be denying students or employees their rights to equal treatment with regard to sex and which may ultimately jeopardize the agency's eligibility for Federal funds.

It provides a mechanism for mutual problem-solving among the various groups represented in the education agency by providing a channel for constructive and result-oriented communication.

"In this session we want to examine briefly two basic components of an effective grievance procedure. The first basic component of the procedure to be examined is the nature of the structure provided by the procedure itself. In this instance we are asking the question:

> Do the provisions of the procedure provide an adequate method of result-oriented problem-solving?

"The second component which determines the success or failure of a grievance procedure is the human element, or

the understandings and skills of persons implementing or involved in the procedure. In this instance, the question which must be asked is:

> Do we, as educators and concerned individuals, have a sufficient level of knowledge and skill to facilitate the meaningful and effective functioning of the procedure?

"Both of these components are essential to effective implementation of a grievance procedure.

"Let us examine the first component--the structure of the grievance procedure. Every grievance procedure should be designed to:

First, provide equitability and due process to all parties involved in the grievance.

Equitability and due process are enhanced when grievance procedures provide timelines for prompt consideration of the grievance, the right to impartial hearing officers, the right of appeal to a higher level of consideration, and the right of all parties to present their case and receive a fair hearing.

Second, to make utilization and implementation of the grievance procedure as simple as possible while continuing to ensure equitability and actual resolution of the grievance.

An effective grievance procedure must be simple to use. To be simple to use, a grievance procedure need not be briefly written nor limited to a single step when implemented. It is likely to be simple and effective when the written procedure clearly states all steps, activities, responsibilities, and timelines, and when assistance and information with regard to Title IX and grievance matters are made available to all parties--grievants, respondents, and decision-makers.

"A number of the basic components of a grievance procedure is listed on the chart posted. Ideally, the structure of a grievance procedure should delineate three types of information:

1. Procedures for initiation of a grievance
2. Procedures for processing a grievance
3. Procedures for ensuring that the rights of all parties are protected

"Because of the importance of Title IX grievance procedures to the provision of equity, we will spend the next few minutes considering each of these areas and some of the issues related to each. As we review, remember that the Title IX regulation does not specify any requirements for the structure of the grievance procedure beyond those of promptness and equitability. The discussion which follows is based on general principles, not legal requirements. You may wish to follow the "Components of a Grievance Procedure" outline and make some notes. You will find this outline in Appendix B of your participant workbook."

I. Procedures for Initiation of a Grievance

The grievance procedure should specify:

A. Who may grieve:

All students and employees must have access to a grievance procedure for resolution of complaints related to Title IX, though the procedure need not be the same for both groups. (For example, a grievance procedure maintained under a negotiated agreement might be used for employee grievances under Title IX, while a separate procedure is made available for student use.) Use of the grievance procedure by persons filing on behalf of a student or employee or by groups or classes of students or employees, is at the discretion of the school or district.

B. What shall constitute a grievance:

Generally, a grievance is defined as any allegation of non-compliance with Title IX or the provisions of its implementing regulation. Some grievance procedures have been extended for the handling of issues of sex discrimination not covered under the

Title IX regulation or of issues of racial or ethnic discrimination. This again is at the discretion of the school or district.

C. The time limits for filing a grievance:

Stipulation of a time limit for the filing of grievance protects all parties to the grievance from the necessity of resolving grievances long after necessary information or witnesses become unavailable. Time limits for filing should, however, be long enough to avoid any appearance of grievance obstruction by the school or school district, and should clearly state whether the limits specified refer to working or calendar days.

D. The manner or form in which grievances shall be filed:

All grievance procedures should state:

1. Whether grievance filing is to be written or oral (although oral filing may be simpler initially, the filing of a grievance in writing serves to establish records which may be useful later and may encourage the grievant to clarify her/his grievance.)

2. What information should be provided in filing.

3. With whom grievances should be filed.

E. The forms of assistance available to grievants for clarification of Title IX requirements or initiation of a grievance:

Providing assistance and consultation to potential grievants may reduce the number of inappropriate grievances filed (those which involve issues not included under the grievance procedure) and may assist grievants in clarifying their complaints, thus saving processing time. Extreme care should be taken at this stage, however, to avoid either the fact or appearance of grievance obstruction or dissuasion.

II. Procedures for Processing a Grievance

The grievance procedure should specify:

A. The number and levels of steps for grievance processing:

Most formal grievance procedures provide that grievances shall move from an initial level (often informal) involving only the grievant, the person immediately responsible, and his/her immediate supervisor, through a series of appeal steps involving progressively higher levels, up through the governing body of an institution or school district. The progression is designed to ensure consideration of the grievance by persons differentially involved or affected by the outcome of the grievance resolution.

The crucial point to remember in determining the number and levels of grievance processing steps appropriate to an institution or district is that each step should provide an opportunity for actual grievance resolution. Only those persons with authority to mandate action to correct or remedy any discrimination identified should be involved in grievance decision-making.

An example of a progression of steps which might be appropriate in a local education agency is:

Step 1: Building level authority (school principal)

Step 2: Central administrative level authority (superintendent or assistant superintendent)

Step 3: Governance level authority (board of education or designees)

B. The form of grievance presentation and processing at each step:

The presentation and processing of grievances may be completely oral, completely written, or some combination of the two forms, perhaps in the context of a formal hearing. If presentation and

processing are completely oral (this is usually more appropriate at the pre-grievance stage), procedures must be developed to ensure adequate recording. The presentation and processing of grievances entirely in writing may deny opportunities for presentation of evidence and for back-and-forth questioning of parties to the grievance which may be necessary for grievance resolution. In most procedures, as the level of administrative authority increases with each grievance step, the procedures for presentation and processing become more formalized and specific. In many procedures, the final processing involves a formal grievance hearing in which the parties to the grievance present positions, evidence, and witnesses, and question those presented by the other party, according to a specified format. The prime consideration involved in determining the forms of grievance presentation and processing should be the assurance of due process to all parties.

C. Requirements for notification of involved parties at various phases of the grievance process:

In order to ensure due process, all parties to the grievance must be notified at various phases regarding grievance developments and their own grievance responsibilities. Notification is necessary when:

An individual has been named in a Title IX grievance

A grievance meeting or activity is scheduled

A grievance decision or ruling has been made

D. Timelines governing the various actions or steps within the grievance process:

Prompt processing is essential to the effectiveness of a grievance process. Timelines should be established for virtually every action within the grievance process--grievance filing, procedural notifications, the scheduling and implementation

of grievance meetings or hearings, the provision of grievance decisions, the filing of grievance appeals, etc.

In most education agencies, five working days are the maximum which should elapse between any two grievance actions. Provisions may be established for waiving the timelines by consent of all parties.

E. Procedures which govern the conduct of grievance meetings or hearings at any step of the grievance process:

Grievance meetings or hearings should be conducted with sufficient informality to allow persons without legal training to participate fully. It is useful, however, to specify some general guidelines for conducting grievance meetings because this provides all parties with a common framework from which to operate and it ensures that all grievances are handled in a similar way. Among the specifications which may be made are:

The minimum time allocated to a grievance hearing

The time allocated to each party

The right of each party to representation

The right to present witnesses and evidence

The right to question opposing witnesses

Responsibilities for the moderation of the meeting or hearing

The grievant's right to determine whether the meeting will be public or closed and confidential

The procedures for recording the hearing or meeting

F. Requirements for the filing or submission of information by the grievant or respondent:

Just as the filing of grievances in written form serves to establish written records. and may assist

in the clarification of grievance issues, so may the submission of written grievance responses (statements by any persons alleged to have been responsible for Title IX violations).

G. Specification of the form which grievance decisions should take at each step:

Grievance decisions at each step should contain two types of information:

The decision regarding the validity of the allegation of a Title IX violation; and (if the allegation is held valid) the specification of any actions which will be taken to correct or redress the violation.

Written grievance decisions provided to the grievant, any respondents named, and the Title IX coordinator facilitate grievance administration and recordkeeping, and minimize any possibility of misunderstanding by any party to the grievance.

H. The role and/or selection of persons involved in grievance processing:

Many grievance procedures delineate roles within the processing of grievances which involve persons other than the grievant, the respondent, and their representatives. These roles may include assisting grievants in grievance preparation, moderating grievance hearings, recordkeeping, fact-finding, etc. Where such roles are involved, the duties of and the qualifications required by persons fulfilling them should be specified.

III. Procedures for Ensuring that the Rights of All Parties are Protected

A. A grievant's right of appeal:

The right of grievants to appeal grievance decisions to higher levels of consideration is one of the most basic components of an

equitable grievance procedure. It ensures that all grievance decisions (except those at the final level) are subject to review and modification, and it protects all parties from the bias which may occur at any single level. Procedures which provide for grievance decision-making at several levels of authority build in an appeal mechanism. The right of appeal should be clearly stated within the grievance procedure, and all responsibilities of the grievant related to timelines, procedures, and forms for appeal should be clearly stated. Notification of the right of appeal might also be included in notification of grievance decisions.

B. The right of all parties to impartial grievance decision-makers:

The right of all parties to a grievance to impartial grievance decision-makers is a basic component of an equitable procedure. The maintenance of impartiality within an internal grievance procedure (one in which grievance decisions are made by a representative of the institution in which discrimination is alleged to have occurred) may be addressed in several ways:

By referring grievances which are alleged to have occurred at one level (e.g., the school) to the next level for processing (e.g., the central administrative office).

By delegating the grievance processing authority of the agency administration or governance to a person or group of persons more likely to be impartial. Delegation of authority to a grievance hearing panel composed of community members, faculty, administrators, and in some cases students, is one method often used. If this is done, the extent of the authority delegated--whether it is final or merely advisory--should be specified.

In addition to such structural means of increasing impartiality, it is critical that all

grievance decision-makers receive training in Title IX requirements and in basic principles of equity in grievance processing. Requirements for such training may be specified within the written grievance procedure.

C. The access of grievants to relevant agency/institutional records:

Two primary considerations are involved in this issue:

The right of the grievant to information relevant to his/her grievance which may be in possession of the agency/institution

The responsibility of the agency/institution to protect information which is legitimately collected under guarantee of confidentiality

Both rights are of sufficient importance to require that some compromise be developed. Many agencies have implemented a procedure whereby all relevant records are made available with names and identifying information not bearing on the validity of the grievance removed. Both the "sunshine" laws and the right-to-privacy laws of a state may, of course, have impact on this portion of the grievance procedure.

D. The protection of grievants from harrassment and retaliation:

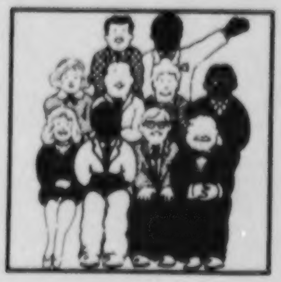
The protection of grievants or participants in the grievance process from harassment, reprisals, or retaliation must be specifically assured in a written grievance procedure and strictly enforced by all persons within an agency/institution.

E. The confidentiality of grievance proceedings:

Maintenance of confidentiality regarding names and identifying information related to the parties of a grievance (unless confidentiality

is waived by the grievant) serves to help protect all parties from harassment and reprisals, and may in fact encourage discussion and problem exploration in a protected environment. Information regarding the substantive issues and decisions involved in the grievance may be made public when identifying information is removed.

"It should be pointed out that many grievance procedures will not include specification of all these items. This does not mean that the procedure is not in compliance with the Title IX regulation; rather, examination of the scope of specification that is possible in a grievance procedure provides a basis for determining if modification of the present procedure may be useful."



B. Questions and Answers (5 minutes)

After completing the lecture, the facilitator should allow approximately five minutes for participants to ask questions in the total group. (The facilitator may, of course, choose to respond to questions during the lecture.) If so, s/he should make sure that the questions do not digress in such a way that the basic points of the lecture are not covered, and that the time elapsed does not exceed the total 25 minutes allocated in this outline for the combined lecture/question and answer activities.

One of the questions frequently raised by participants concerns the options available to a grievant who has exhausted the internal grievance procedure, completing all possible steps and receiving a final decision which s/he believes is illegal or invalid. If this question occurs, the facilitator should remind participants of the possibility of filing a direct complaint with the Office for Civil Rights. Participants may refer to Appendix C in their Participant Workbooks (Anyone's Guide to Filing A Title IX Complaint) for more detailed information. It may also be useful in this context to remind participants that, by defintion, a school district or education agency is the ultimate authority in an internal process and that for this reason, the internal process cannot be expected to serve the same functions as a Federal complaint or court suit.

On occasion, technical questions regarding potential relationships between provisions of the grievance procedure and various state laws affecting public access to or privacy of school records may arise. If these questions are beyond the expertise of the facilitator, the participant should be referred to legal counsel.

C. Small Group Activity: Evaluating a Sample Internal Grievance Procedure: Harper Valley School District Title IX Grievance Procedure (20 minutes)

The purpose of this small group activity is to provide participants with "hands-on" experience in the application of the points made in the preceding lecture to the evaluation of a sample Title IX grievance procedure. Participants are provided a "Checklist for Evaluating Content of Grievance Procedures", which corresponds in its organization to the lecture, to help them analyze whether or not various components are included in the sample grievance procedure. Through this activity, participants should increase their skills for evaluating the adequacy of the grievance procedures in their own schools and school districts.

The facilitator should introduce the activity with comments such as the following:

"Some of the points that we've just discussed regarding the structure and components of grievance procedures may seem technical and somewhat removed from many of our day-to-day activities. It is important to remember, however, that the Title IX grievance procedure is important to each of us as a means of:

> Ensuring that our own rights are protected whether we file a grievance or are named in a grievance
>
> Ensuring that the rights of our students and colleagues are protected
>
> Ensuring that a problem-solving procedure exists whereby persons can explore and resolve problems related to the provisions of sex equity, without the necessity of outside intervention.

"If a grievance procedure is to function effectively in these ways, it is important that necessary structures be provided and specified.

"Each of us can play a valuable role in analyzing the grievance procedures in our own schools or school districts to ensure that they are effective and equitable. We need to be able to examine our procedure by asking the question:

> Do the provisions of the procedure provide an adequate method of result-oriented problem-solving?

"To help us in determining the answer to this question, you will find in your Participant Workbook the Checklist for Evaluating the Content of a Grievance Procedure (Participant Worksheet 1). You will notice that the questions it asks correspond to the points we have just discussed. Remember that a "no" answer to a question does not mean that the procedure is not in compliance with Title IX; it merely indicates an area in which the procedure might be made more specific and perhaps more effective.

"For the next few minutes, we will work with this checklist in small groups of about four to six persons, reviewing the sample Title IX grievance procedure entitled, "Harper Valley School District Title IX Grievance Procedure" (Participant Worksheet 2). You should work as a group on the procedure. Use the Checklist to review the procedure for about 20 minutes."

Participants should form their small groups and work for approximately 20 minutes. During this time, the facilitator(s) should circulate among the groups to observe and note any issues which should be discussed during large group discussion. Although the facilitator may make brief clarifying remarks, s/he should avoid detracting from or taking over the small group activity.

D. Large Group Discussion (10 minutes)

After participants have had approximately twenty minutes to complete the Checklist in their small groups, the facilitator should call together the total group to process the activity. During the processing, opportunity should be provided for participants to raise any specific questions they have regarding the sample procedure. Facilitators should complete the checklist themselves in order to prepare to respond to any specific questions raised. The facilitator should also raise the following questions during the processing:

> Is the procedure complete? Why or why not?
>
> What is the single most important change participants would choose to make in the sample procedure?
>
> What particular elements will they look for in evaluating their own Title IX grievance procedures?

The facilitator should conclude the activity by reminding participants that the structural provisions of the Title IX grievance procedure utilized in their school districts can significantly affect:

> Their personal rights
>
> The ability of their school districts to monitor effectively Title IX compliance and to protect themselves, their employees, and their students from sex discrimination.

Participant Worksheet 1

CHECKLIST FOR EVALUATING THE CONTENT OF GRIEVANCE PROCEDURES

Listed below are a number of questions which may be used to evaluate the content of Title IX grievance procedures and determine possible needs for modification. Questions are organized into three sections: initiation and filing of the grievance; processing of the grievance; and basic procedural rights. Remember that these questions do not reflect Title IX requirements; they reflect instead general principles of grievance processing. A "no" answer does not indicate a violation of Title IX but it may indicate an area where further specification is desirable.

Initiation and filing of grievances

Does the grievance procedure:

1. Provide clear and adequate definitions of who may grieve, of what issues may be covered by grievances, and of the terms used throughout the procedure?
____Yes ____No

2. Cover all students and employees? ____Yes ____No

3. Clearly state the form and procedure for filing of grievances? ____Yes ____No

4. Specify any applicable time limits for the initiation of a grievance? ____Yes ____No

5. Provide for assistance to grievants in the filing/preparation/processing of a grievance?
____Yes ____No

6. Specify the responsibilities of institutional/agency staff for the receipt and initial handling of grievances? ____Yes ____No

7. Provide methods for informal and prompt resolution of grievances when further processing is not needed?
____Yes ____No

Processing of grievances

Does the grievance procedure:

1. State the number and levels of steps for grievance processing and the criteria for initial referral to each level? ____Yes ____No

2. State the form of grievance presentation and processing (oral/written; hearing officer/hearing panel; etc.) at each step? ____Yes ____No

3. Specify the criteria and procedure for the assignment of initial hearing levels? ____Yes ____No

4. Delineate procedures and responsibilities for notification of all parties at each processing level? ____Yes ____No

5. Delineate timelines for all activities within the grievance procedure? ____Yes ____No

6. Specify the procedures which shall be used in conducting grievance hearings? ____Yes ____No

   a) amount of time allocated to each hearing? ____Yes ____No

   b) amount of time allocated to each party to the grievance? ____Yes ____No

   c) right of each party to representation and assistance? ____Yes ____No

   d) right of each party to present witnesses and evidence? ____Yes ____No

   e) right of each party to question witnesses? ____Yes ____No

   f) roles of persons involved in the hearing? ____Yes ____No

   g) right of grievant to determine whether hearing shall be open to the public? ____Yes ____No

   h) provisions/requirements for recording and hearing? ____Yes ____No

7. Specify any requirements for submission of written information by grievants or others? ____Yes ____No

8. State the form and timelines for the preparation of grievance decisions? ____Yes ____No

9. Clearly state the procedures and timelines for the grievant's acceptance or appeal of grievance decisions? ____Yes ____No

10. Specify the roles and selection of persons involved in grievance processing? ____Yes ____No

Basic and Procedural Rights

Does the grievance procedure:

1. Provide grievants with the right to appeal to progressive levels of decision-making? ____Yes ____No

2. Provide assurances regarding the impartiality of hearing officers? ____Yes ____No

3. Provide for confidentiality of grievance proceedings if so desired by the grievant? ____Yes ____No

4. Provide for grievants' access to relevant institutional/agency records? ____Yes ____No

5. Provide for the protection of grievants and repondents from harassment and entry of information into student and personnel files? ____Yes ____No

6. Provide for confidentiality of grievance records if so desired by the grievant? ____Yes ____No

Participant
Worksheet 2

HARPER VALLEY SCHOOL DISTRICT TITLE IX GRIEVANCE PROCEDURE

Background:

In compliance with Title IX regulations, the Harper Valley School District has developed an internal grievance procedure for filing student and employee discrimination complaints. You are a member of the committee which must approve or revise that grievance procedure.

Directions:

Use the "Checklist for Evaluating the Content of Grievance Procedures" (Participant Worksheet 1) and "Components of a Grievance Procedure" (Appendix B) to evaluate the following internal grievance procedure.

GRIEVANCE PROCEDURE

DEFINITIONS

GRIEVANCE: A formal written complaint which:

1. Sets forth the allegation that there has been a violation, misinterpretation or inequitable application of any district policy or practice involving Federal anti-discrimination legislation;
2. Specifically identifies the policy or statute violated, misinterpreted or inequitably applied;
3. Furnishes sufficient background concerning the alleged violation, misinterpretation or inequitable application to identify persons, actions and/or omissions that led to the allegation.

GRIEVANT: Any student, employee, teacher, or parent aggrieved by a decision or condition falling under the guidelines of Federal anti-discrimination legislation.

STUDENT: Any person enrolled as a student in any school and/or educational or recreational program authorized by the Harper Valley Board of Education.

EMPLOYEE: Any full-time or part-time teacher, secretary, clerk, custodian, cleaner, administrator, or other person receiving compensation for services rendered to the Harper Valley Board of Education.

SUPERINTENDENT or BOARD'S AGENT: The Superintendent of Schools or a designated agent for the Harper Valley Board of Education.

RESPONDENT: The Harper Valley Board of Education.

COMPLIANCE OFFICER: The School District employee or employees designated to coordinate compliance efforts with Federal anti-discrimination legislation and charged with the responsibility of investigating complaints.

General Provisions:

A. A grievance must be filed within 90 days of the date of the circumstances which occasioned the grievance.

B. No person shall suffer recrimination or discrimination because of participation in this grievance procedure.

C. Whenever possible, hearings will be scheduled during a mutually convenient time that does not conflict with the regularly scheduled school programs.

D. Employees shall be free to testify regarding any grievance filed hereunder and the expense of necessary and approved release time shall be borne by the school district when hearings must be scheduled during the school day.

E. Confidentiality will be observed pending resolution of the grievance or final decision by the Board of Education.

F. Nothing contained herein shall be construed to limit in any way the option of the district and the grievant to resolve any grievance mutually and informally.

G. These grievance procedures will not be required to be followed if the other statutory procedures are available.

Procedure:

Level I: a) The grievant shall prepare and file the grievance with the Compliance Officer.

b) The Compliance Officer shall investigate the complaint with parties concerned in the grievance within ten (10) calendar days of the grievance filing.

c) The Compliance Officer shall issue a written report setting forth his/her findings and recommendations for the resolution of the grievance within five (5) calendar days after the conclusion of the investigation.

d) The grievance shall be considered resolved if the grievant fails to file the grievance at Level II within the time limits set forth herein.

e) If no written report has been issued within the time limits set forth in "c)" above, or if the grievant or district shall reject the recommendations of the Compliance Officer, the grievant shall be free to file the grievance at Level II.

Level II: a) The grievant shall file the grievance with the designated agent of the Board of Education within ten (10) days of the date the Compliance Officer's report was (or should have been) issued. This designated agent may be an employee of the district, but may not be the Compliance Officer or a person involved in the grievance.

b) Within ten (10) days of the receipt of the grievance, the Board's agent shall conduct a hearing with all parties involved in the grievance.

c) Within five (5) days of the completion of the hearings, the Board's agent shall prepare and issue a report setting forth recommendations for the resolution of the grievance.

d) The grievance shall be considered resolved if the grievant accepts the recommendations of the Board's agent, or if the grievant fails to file the grievance at Level III within the time limits set forth herein.

Level III: a) If the grievant rejects the recommendations of the Board's agent, or if the Board's agent fails to issue a report within the time limits set forth above, the grievant shall be free to file the grievance at Level III within ten (10) days of the date the Board's agent recommendations were (or should have been) issued.

b) In any matter where the law requires a hearing before the Board of Education, the third step of this procedure shall be that hearing.

c) In any matter where the law does not require a hearing before the Board of Education, the third step of this procedure shall be conducted by a mutually-selected compliance panel.

1. The grievant shall file the grievance by delivering it to the Board of Education within the time limits set forth herein. Such filing shall name a person selected by the grievant to sit upon an ad hoc Compliance Panel.

2. Within five (5) days of receipt of the grievance, the ranking officer of the Board shall appoint one member to the Compliance Panel.

3. The two members so selected shall meet and mutually agree upon a third Panel member who shall be the chairperson of the Panel. In the event the two members are unable to agree upon a third, they shall request the presiding judge of the county court to appoint the chairperson.

4. Within fifteen (15) days of the filing of the grievance at Level III, the Compliance Panel shall convene, hear the testimony of all interested parties, and seek such legal guidance as it deems necessary. The Compliance Panel shall have the authority to call witnesses and to establish the procedures for the hearing.

5. Within twenty-five (25) days of the filing of the grievance at Level III, the Compliance Panel shall issue its findings of fact and specific recommendations for the resolution of the grievance to both the grievant and the Board of Education. The grievance shall be considered resolved if the recommendations of the Panel are accepted by the Board and the grievant.

6. The actual and necessary expenses of the Panel shall be jointly borne by the Board of Education and the grievant. Fees of Panel members, if any, shall be paid by the parties who appointed them, and fees, if any, of the Panel chairperson shall be jointly paid by the grievant and the district.

Post Grievance Procedure Resolution:

In the event that the grievance remains unresolved at the termination of this grievance procedure, the grievant is free to pursue such litigation or statutory remedy as the law may provide.

HARPER VALLEY SCHOOL DISTRICT STATEMENT OF GRIEVANCE FORM

NAME OF: STUDENT ______________________________

OR

EMPLOYEE______________________________

SCHOOL OR DEPARTMENT______________________________

____

STATEMENT OF COMPLAINT:

SOLUTION SUGGESTED BY COMPLAINANT:

____

SIGNATURE OF STUDENT OR EMPLOYEE

DATE SUBMITTED: ____________________

ACTIVITY 3

IMPLEMENTING THE GRIEVANCE PROCESS: WHAT CONSTITUTES DISCRIMINATION?

125
MINUTES

Activity Agenda:

A. Lecture and Discussion: Implementing Title IX Grievance Procedures (15 minutes)

B. Group Role-Play and Discussion: Case Study #1 (25 minutes)

C. Small Group Activity: Case Studies for Analysis: #2-#5 (25 minutes)

D. Large Group Discussion (10 minutes)

E. Small Group Activity: Evaluating Sample Title IX Grievances (35 minutes)

F. Large Group Discussion (10 minutes)

G. Workshop Evaluation (5 minutes)

Purposes of the Activity:

To increase participants' awareness of positive attitudes which can contribute to the effective implementation of the Title IX grievance procedure.

To increase participants' understanding of their own responsibilities for grievance problem-solving and the elimination of sex discrimination.

To increase participants' skills in identifying violations of the Title IX regulation.

To increase participants' skills in identifying or formulating corrective actions and remedial measures which may be taken to redress Title IX violations.

PROCEDURE

A. Lecture and Discussion: Implementing Title IX Grievance Procedure (15 minutes)

The purpose of this lecture is to review for participants issues relating to their own participation (or the participation of other education personnel) in the implementation of the Title IX grievance procedure and in grievance resolution, and to provide them with guidelines for considering their own potential roles in grievance processing and resolution. The lecture is also intended to provide a frame of reference for the sample grievance resolution activity which follows it.

Suggested Lecture

"In one of the preceding activities, we focused on the formal or structural issues related to Title IX grievance procedures. We were considering the question,

> Do the provisions of the procedure provide an adequate method of result-oriented problem-solving?

"For the rest of this session, we will turn our attention to the second aspect of Title IX grievance procedures--the human factors in their implementation. We will be asking the question:

> Do we and other staff members of our school district have a sufficient level of knowledge and skill to facilitate the meaningful and effective functioning of the procedure?

"We will first review some basic points regarding effective staff participation in grievance processing, and then we will be working in small groups to check our understandings of Title IX requirements and our skills in Title IX grievance resolution.

"It is important to remember that our Title IX grievance procedures will be only as effective as we as individuals make them. Our attitudes, knowledge, and skills (and those of our colleagues) are critical determinants in the success of our grievance procedures. Each of us must recognize that the elimination of sex discrimination in schools is one of our ongoing responsibilities as educators. We need to establish a problem-solving climate

which can support continuing effort by all persons to identify and modify behavior or programs which may be discriminatory. Allegations of Title IX violations are a valuable form of personal and institutional feedback. If a grievance has merit, it provides the opportunity to correct a specific problem; if the grievance is without merit, it provides an opportunity to explore the circumstances which may be responsible for the allegation of discrimination.

"Some of the basic staff understandings that facilitate positive implementation of the grievance process include:

> Discrimination against students is a serious problem, and all efforts must be made to provide full equity to students and employees. This is both a legal and an educational responsibility of schools.
>
> The Title IX grievance procedure is a positive, effective method for solving those problems related to sex discrimination.
>
> The use of the Title IX grievance process is a basic right guaranteed to students and employees by Federal law and regulation.
>
> Although being named respondent in a grievance is not a pleasant experience, it can provide important feedback and the opportunity to improve our personal and/or institutional effectiveness.

"Just as we may, as employees of a school district, file a Title IX grievance, we may also as employees, be named in a Title IX grievance filed by someone else (a student or another employee), or we may be called upon to participate in processing or resolving a grievance filed by someone else. As persons with potential responsibility for grievance processing or decision-making, we should remember the following guidelines for grievance processing:

> Be thoroughly familiar with the written grievance procedure; understand the processing steps and the responsibilities and rights of all parties involved in the grievance and in grievance processing.

Examine the Title IX regulation and related memoranda, directives, guidelines, and amendments to identify their relevance to the grievance.

Withhold judgment regarding the validity of the grievance; do not move to a position of denial or defense.

Maintain an open and objective attitude.

Avoid talking about blame, either directly or indirectly.

Do not express preconceived notions, ideas, judgments, or conclusions.

Do not predict outcomes."

B. Large Group Role Play and Discussion: Case Study #1 (25 minutes)

The purpose of this activity is to help participants define "discrimination" and determine, in a sample case study, whether discrimination and a violation of Title IX has taken place.

The facilitator should take about ten minutes to introduce the activity with such comments as:

> "Before we can analyze specific Title IX grievances, it will be helpful to determine what constitutes discrimination. What makes "sex-discrimination" different from "sex stereotyping" or "sex-bias"? The definitions of all three phrases are listed for you on the chart, or you may refer to the Definitions sheet provided in Appendix D of your Participant Workbook. Let's take a moment to review the terms."

The facilitator should refer the group to the chart entitled "Definitions" and read each definition aloud. Any questions regarding the terms may be answered briefly at this time. If the facilitator finds it helpful, participants should be asked for specific examples of incidents which the group can use to apply their understanding of the definitions.

Next, the facilitator should have participants find Case Study for Analysis #1 (Participant Worksheet 3) in their workbooks. It should be explained that the entire group will listen to the situation as it is role-played. They will then discuss whether or not bias, stereotyping and/or discrimination have taken place, and what recourse is available to the person involved in the situation. Two participants should be chosen (or should be asked to volunteer) to help the facilitator read from Case Study for Analysis #1 .

When the two people are chosen, the facilitator should assign parts and take about ten minutes to conduct the role-play before the entire group. At the conclusion of the reading, the facilitator should take about five minutes to lead the group in answering the "Discussion Questions" at the end of the Case Study Sheet. (AFTER the discussion, suggested responses to the Discussion Questions may be found by participants in Appendix E of the Participant Workbook.)

C. Small Group Activity: Case Studies for Analysis, #2-#5 (25 minutes)

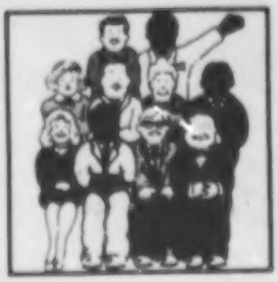
The purpose of this activity is to have participants work together in small groups to apply the definitions of sex-stereotyping, sex-bias, and sex-discrimination, and to analyze each case for its relationship to Title IX regulations.

The facilitator should explain the purpose of the activity to the entire group and have participants form small groups of three or four people. Participants should then be asked to find Case Studies for Analysis #2-#5 (Participant Worksheets 4-7) in their workbooks. The facilitator should give participants a minute or two to look over the worksheets and explain the following:

> "Case Study #2 will require that two participants in each group role-play the situation, while others in the group listen and observe. Case Studies #3, #4, and #5 should be read aloud by different members of the group. For all case studies, a rotating group recorder should be chosen to jot down the group's answers to the discussion questions at the end of each case."

When the facilitator has explained this information to participants, the groups should take about twenty minutes to read and discuss the four case studies.

While the participants work, the facilitator(s) must be available to answer questions. It would be beneficial for the facilitator(s) to circulate among the working groups.



D. Large Group Discussion (10 minutes)

While each group may not have time to completely analyze all four case studies, participants should be called back together after the allotted time. The facilitator should take about ten minutes to let participants briefly share their answers to the discussion questions. Also, if there are additional questions about any of the cases, clarification should be made at this time. Refer participants to Appendix E for Suggested Answers to Case Studies Discussion Questions."

E. Small Group Activity: Evaluating Sample Title IX Grievances (35 minutes)

The purpose of this activity is to provide participants with the experience of evaluating sample grievance allegations of the Title IX violations and formulating appropriate corrective actions and remedial measures where necessary. It also provides another opportunity for participants to assess their understandings of Title IX requirements.

The facilitator should introduce the activity with comments such as the following:

"To increase our ability to apply Title IX requirements to various specific situations and to develop our skills for Title IX grievance decision-making, we will spend the rest of this session evaluating several sample Title IX grievances. Whether or not each of us is ever actually called upon to partipate in Title IX grievance resolution, it is critical that each of us be able to identify instances of illegal sex discrimination in the practices and programs for which we are responsible and those we observe, and to identify actions which can be taken to correct this discrimination and its effects.

"In your participant materials, you should find eight sheets, (Participant Worksheets 8-15), entitled "Sample Title IX Grievances." They provide several examples of grievances filed with local education agencies. In some instances, the grievance constitutes a violation of Title IX and, in other instances, there is no violation of Title IX regulations. We are going to ask you to read through each grievance and make a determination of whether the grievance is a violation of the Title IX regulation. When you have made your decision, please indicate it in the appropriate place on the back of the worksheet.

"If you decide that the grievance is a violation of the Title IX regulation, indicate any corrective actions or remedial measures that you believe would be appropriate. Remember that a corrective action is one that is taken to modify a discriminatory policy, program, or practice to attain compliance with Title IX. A remedial measure would be any action that is taken to overcome the effects of the discriminatory policy, program, or practice. These definitions are posted on the chart (and may be found in your workbook) for your reference.

"For example, if female students were not permitted to join the school-sponsored Young Scientists Club, a violation of Title IX would have occurred. Corrective actions might include changing the policy to permit the admission of female students and admitting those female students that apply for membership. Both corrective actions and remedial measures will vary according to the grievance situation.

"You will have about ten minutes to review and decide the grievances individually. Then you will have a chance to discuss your decisions in small groups. Work through as many as you can; you need not complete them all before moving to your small group."

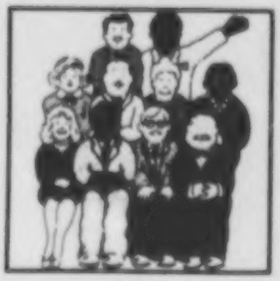
The facilitator should allow about ten minutes for individuals to read grievances, to decide whether they are violations of the Title IX regulation, and to delineate corrective steps and remedial measures.

When most of the participants have finished the assigned task, they should be asked to form small groups of about four persons each. The members of the group should then compare their grievance decisions and identify those corrective actions and remedial measures which they believe to be most appropriate for the specific grievance. Approximately twenty-five minutes should be allowed for this activity.

While the groups are discussing the grievances, the facilitator(s) should walk around the room and observe the discussion groups. If it would be useful to provide a clarifying comment, the facilitator should feel free to do so, but this should not be permitted to detract from the group members' discussion. In observing the groups, the facilitator should consider the following questions:

> What misunderstandings or confusions about Title IX regulation can be identified?
>
> Are group members able to recognize violations of the Title IX regulation?
>
> Can group members distinguish between corrective actions and remedial measures?
>
> Can group members identify appropriate corrective actions and remedial measures?

This diagnosis of the problems encountered during the discussion should provide the facilitator with a basis for processing and summarizing the discussions with the total group.



F. Large Group Discussion (10 minutes)

After the small groups have had approximately twenty-five minutes to discuss their grievance decisions, a total group discussion should be initiated by the facilitator. This discussion should provide the opportunity for participants to check their perceptions with members of other groups and with the facilitator. Group members should also have a chance to share their suggestions for corrective actions and remedial steps. These might be noted on newsprint or chalkboard by a facilitator or small group recorder so that members of the group have an opportunity to react to the variety of suggestions.

The facilitator should be familiar with the sample grievance analyses provided so that s/he may introduce information which might not otherwise arise during processing. The facilitator should also direct the discussion in such a way to permit clarification of points that were observed to be unclear during small group discussions.

In concluding the total group discussion, the facilitator should encourage participants to complete later any grievance worksheets left unfinished. S/he should also refer participants to the Sample Grievance Analyses (Appendix F) provided in their participant workbooks. In doing so, s/he should point out that the analyses are only illustrative and should not be interpreted as official policies of the Office for Civil Rights. Participants may be urged to compare their responses with these suggestions and to identify similarities and differences. Such differences may indicate the range of creative grievance decisions appropriate for the range of local situations.

G. Workshop Evaluation (5 minutes)

To conclude this session, the facilitator should have participants take about five minutes to complete the Workshop Evaluation sheet found at the end of their participant workbooks. Evaluations should then be collected so that they can be reviewed by the facilitator.

CASE STUDY FOR ANALYSIS #1

Late Friday afternoon, three people meet in the principal's office at the Metropolitan School. The three people are Mr. Knitt, the principal, Ms. Rears, the assistant principal, and Ms. Ramirez, who is noticeably pregnant. Mr. Knitt, arms folded, head slightly bowed, walks nervously to and fro in front of a large, immaculately polished mahogany desk. Ms. Rears is seated beside Ms. Ramirez.

KNITT: Ms. Ramirez (pause), I have asked you to my office to discuss (hesitantly) your present condition.

RAMIREZ: My condition, Mr. Knitt?

KNITT: (more confidently) Well, you are obviously pregnant, and judging from my own experience in this area---

RAMIREZ: Your experience in this area, Mr. Knitt?

KNITT: I have three children--that is, my wife and I have three children. And, I want you to know that during her three pregnancies I never once allowed her to do any work that I considered emotionally strenuous or exacting!

RAMIREZ: What has that to do with me, Mr. Knitt? What strenuous work am I doing?

KNITT: You have 33 active youngsters in your classroom and to my way of thinking, that must be a physical and emotional strain on you--in your present condition, I mean!

REARS: I quite agree with Mr. Knitt, Ms. Ramirez! Your present condition precludes your handling effectively any discipline problems that might arise in that sixth-grade classroom.

KNITT: We think that you ought to take a leave of absence immediately--beginning Monday of next week!

RAMIREZ: Mr. Knitt, I am not suffering from any ill-effects of being pregnant. My health is excellent. I gave you a doctor's statement attesting to my health only last week! And I really do need to continue working.

KNITT: I recall vividly that my wife, while pregnant, suffered daily from nausea and morning sickness. Ms. Rears here has majored in P.E. and she tells me that nausea and morning sickness are common during pregnancy.

REARS: Mr. Knitt is absolutely correct. Nausea, vomiting, and general blahs are common in pregnancies. Such infirmities would not only handicap you as a teacher, but would be disruptive to a classroom.

RAMIREZ: Do you also have children, Ms. Rears?

REARS: No! I am not married! Nor have I ever been married!

RAMIREZ: Have you ever had a child?

REARS: The answer to that question should be obvious! I've stated that I am not married.

KNITT: Ms. Ramirez, I do not wish to prolong the discussion. Ms. Rears and I are looking out for your well-being.

RAMIREZ: My well-being is dependent on my continued working, Mr. Knitt. I am only four months pregnant. I need to help my husband finish his last year in medical school.

KNITT: Ms. Ramirez, I--that is, Ms. Rears and I--fear for your safety. We must guard against every eventuality. You have playground duty this entire month. What if on the playground some child, running with reckless abandon, bumps into you? I cannot conscientiously permit you to continue teaching in your present condition. I suggest that you take a leave of absence. After your baby is born--and you've had several months to recuperate--why, you'll be as good as new and able to return to work. Your job will be waiting--I'll see to that!

RAMIREZ: Mr. Knitt, I have given you a signed statement from my doctor, stating that I am perfectly capable of carrying out my assigned duties.

REARS: Pregnancies are unpredictable, Ms. Ramirez. What do you suppose would happen if your baby was born prematurely here at school? What would your class think? How could we explain that--that--event?

RAMIREZ: Giving birth is a most beautiful experience---

KNITT: Here! Here! What I am telling you, Ms. Ramirez, is a matter of district policy! I don't make the rules! As for your doctor's statement---hell, he doesn't know the hazards of this job.

RAMIREZ: Mr. Knitt, I can assure you that I have had no experience here that would jeopardize my health or the health of the child that I carry. There is absolutely nothing to prevent me from continuing my responsibilities. Has the quality of my work suffered? My class behaves beautifully!

KNITT: Ms. Ramirez, as of Monday morning I will have assigned Ms. Rears to your classroom!

DISCUSSION QUESTIONS:

1. What laws have been violated?

2. What recourse does the law provide for Ms. Ramirez?

3. What do you predict would be the outcome of a complaint filed with the Office of Civil Rights?

CASE STUDY FOR ANALYSIS #2

JOB DESCRIPTION: Athletic Director.

The applicant will initiate, design and implement schedules, travel, equipment and budget for the sports of volleyball, swimming, and track. The applicant would travel with teams to major events.

During an interview for a position as Athletic Director, Ms. Ann Reedtree was asked to respond to a series of questions by Mr. Lenhope, personnel interviewer:

LENHOPE: Ms. Reedtree, it says on your application that you are willing to travel.

REEDTREE: That's correct. I am free to travel.

LENHOPE: Does that mean you are not married, Ms. Reedtree?

REEDTREE: No! It means that my husband has no objections to my doing work that requires traveling.

LENHOPE: The job may require that you spend several nights away from home...possibly in a motel with a male co-worker. Do you see any problems, er... in dealing with a man who might make sexual advances?

REEDTREE: Mr. Lenhope, I'm looking for a job, not sexual experience; in answer to your first question... motels usually have more than ONE room.

LENHOPE: You are young and attractive...

REEDTREE: 26!

LENHOPE: And it would not be unusual for a man to make sexual overtures. I mean it's normal for a man to behave...

REEDTREE: Sir, may I repeat that I am not in the least interested in the sexual problems of the employees in this university; and furthermore, I can assure you that I am perfectly capable of taking care of myself. And, if by some chance, I can't, believe me, my husband can!

LENHOPE: Ms. Reedtree, do you use birth control?

REEDTREE: That, sir, is none of your damn business.

LENHOPE: Well, Ms. Reedtree, you seem to have all the requirements for the position, but I seriously question your emotional stability. If you do not hear from us within three days, you will know that someone else got the position.

DISCUSSION QUESTIONS:

1. What elements are missing in the interview?
2. Which of the concerns that the interviewer has are permissible ones for discussion during an interview?
3. Which questions represent unlawful sex biases?

Participant
Worksheet 5

CASE STUDY FOR ANALYSIS #3

The soccer team at Lowell High School is co-educational. The Lowell team has a six-game schedule in which they play other co-ed teams.

One of the girls on Lowell's team was accidentally kicked by a teammate during practice. The girl's shin was seriously skinned and swollen. Though she had been playing with proper shin guards as equipment, her injury required two weeks of supervision by a physician.

The girl's parents became irate about their daughter's injury. As a part of the parents' protest, they asked that the soccer team be separated into teams for boys and girls. The girl student is anxious to return to the team as it exists.

DISCUSSION QUESTIONS:

1. Which rule under Title IX regulations support the present arrangement for soccer at Lowell High School?
2. What are the implications for the athletic director in this case?
3. What will happen if the parents bring a suit against the school district?

Participant Worksheet 6

CASE STUDY FOR ANALYSIS #4

Plaza Jr. High School planned a Students' Orientation Day. The requirements for high school graduation were distributed and explained to the recent junior high school graduates.

One of the requirements was that all girls have one unit of home economics and/or driver's education. One requirement was that all boys take one course in industrial arts and/or driver's education. As further explanation, students were told that girls might take industrial arts courses, but that those courses could not be used to satisfy the home economics requirement for graduation. Furthermore, boys were told that they could take home economics courses, but not for credit.

The following week, parents were invited to a Parent-Teacher Organization meeting for an orientation session. Parents were asked to discuss any questions that they had relating to their children's curriculum programs.

One mother asked for a waiver of the home economics requirement for her daughter. She asked that her daughter be allowed to take wood shop instead of home economics. The parent was told that this kind of waiver was impossible as wood shop classes were already overcrowded.

DISCUSSION QUESTIONS:

1. Was the parent's request a valid one?
2. How should this mother follow up her request since it was denied?
3. What would be the result if:
    a. The Title IX grievance committee held a hearing?
    b. The Office of Civil Rights received this case as a complaint?
    c. The mother filed a suit under Title VI of the Civil Rights Act of 1964?

Participant
Worksheet 7

CASE STUDY FOR ANALYSIS #5

The Bryant Elementary School has planned a May Day with many field events. The boys' track team has won many state championships. Several track and field events are planned. The coach has arranged for driver's education cars and instructors to take the boys home after practice.

The girls' coach has planned several track and field competitions for the girls. Parents have volunteered car pools to transport the girls from practices held after school.

The girls' coach asked that two girls be allowed to ride home with the boys in the driver's education car pool. She was told that the two activities were paid out of separate funds and that she could not share the arrangement made by the boys' coach. Also, she was warned that she had violated school policy by allowing parents to supply car pools for after-school activities.

The girls' coach appealed the athletic director's decision to the principal and asked for assistance with transportation for the two girls. The principal told her that girls should have fun with track and field, but should not become as competitive or as involved as the boys. He said that school funds were being used to transport boys because they were state champions. He felt that the girls would not pursue the track and field after May Day so there was no need to expend funds for such temporary participation.

The teacher contacted the district's Title IX Coordinator. A conference was scheduled.

DISCUSSION QUESTIONS:

1. What factors will the Title IX Coordinator bring to the attention of the teacher? Principal?
2. What steps should the principal take for immediate changes?
3. What would the effect on students be if policies and procedures remained unchanged?

SAMPLE TITLE IX GRIEVANCES

DIRECTIONS:

Following this page you will find eight sample Title IX grievance worksheets (Participant Worksheets 8-15). Each of these sample grievances reflects a day-to-day problem in Title IX implementation. Read each grievance carefully. Then, answer the questions on the grievance resolution form provided on the back of the worksheet. You will need to determine:

Whether or not the grievance is in violation of the Title IX regulation;

Your reasons for deciding whether or not it is a violation of the Title IX regulation;

Suggestions for corrective actions;

Suggestions for remedial actions.

REMEMBER:

Corrective actions are those taken to modify a discriminatory policy, program, or practice to attain its compliance with the Title IX regulation.

Remedial actions are those taken to overcome the effects of the discriminatory policy, program, or practice.

Participant
Worksheet 8

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Julio Vargas

DATE OF FILING 9/7/76

SCHOOL OR POSITION Parent of Inez Vargas, student at 5th St.
Elementary School Member, Bethel Board of Education

ADDRESS 456 Lorcum Lane

TELEPHONE NUMBER 973-0188

NATURE OF GRIEVANCE It's my understanding that school districts are required by law to comply with Title IX (Education Amendments of 1972). Initial requirements include enacting a policy of non-discrimination and notifying staff, students, and parents; designation of a compliance officer; setting up a grievance procedure; and conducting an institutional self-evaluation. I have asked the superintendent repeatedly for evidence that we have met at least the first year requirements and for a record of corrective and remedial steps that have been taken by the school district. His response is that, "we don't have to worry about that until someone comes in to check and that's most unlikely." I'm filing this grievance on behalf of my child who must be provided notification of the school district's policy of non-discrimination.

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

SIGNATURE OF GRIEVANT

Gordon Dickinson, Title IX Coordinator
PERSON RECEIVING GRIEVANCE

RESOLUTION OFGRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant
Worksheet 9

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Friends of Education Sex Stereotyping Committee

DATE OF FILING 11/10/76

SCHOOL OR POSITION Iliff Area School District

ADDRESS 625 Columbine Street, Iliff

TELEPHONE NUMBER 771-3660

NATURE OF GRIEVANCE The Sex Stereotyping Committee of the Friends of Education have completed a study of the basal reading materials used in our schools and have found the materials to be sex biased and discriminatory. The committee wishes to file a sex discrimination complaint and urges discontinuance of these materials.

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

SIGNATURE OF GRIEVANT

James Patton, Principal
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant Worksheet 10

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Flo Perkins

DATE OF FILING 9/25/76

SCHOOL OR POSITION Matron, Dade Jr. High

ADDRESS 523 West Eighth Street

TELEPHONE NUMBER 229-2671

NATURE OF GRIEVANCE I am the night matron at Dade Jr. High. My job includes general cleaning. I would like to apply for the janitorial position because janitors make $1.75 per hour more than matrons for just about the same work. I was told that I could not apply for the job because it was too hazardous for a woman. When I asked they told me that the putting up of ladders and replacing of light bulbs would be dangerous for women. I've seen the janitor in my buidling replace 3 lightbulbs in the last 6 months. I can do that if they would let me, but they won't even let me try.

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Mr. Harry Caldwell, Business Manager, Jamestown City Schools

SIGNATURE OF GRIEVANT

Jeanne Grant, Title IX Coordinator
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant
Worksheet 11

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Nancy Holgate-Wilson

DATE OF FILING 10/14/76

SCHOOL OR POSITION Counselor, Miller High School

ADDRESS 2500 Miller Road

TELEPHONE NUMBER 265-3790

NATURE OF GRIEVANCE As a counselor in the district, I'm aware of and sensitive to my responsibilities under Title IX. Several months ago Bob Hawker, metals shop teacher, told me that if I scheduled any female into his class, she would be back in my office within two weeks. Vennie Lawrence expressed an interest in metals this fall and I scheduled her in a metals class. In ten days she was back, complaining that she was harassed by the teacher and other students. I have responsibilities under Title IX; don't teachers, too?

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Vennie Lawrence, 10th Grade Student

SIGNATURE OF GRIEVANT

Lennie Maxwell, Principal
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Katrina Breedlove

DATE OF FILING 10/22/76

SCHOOL OR POSITION Jefferson High School, Junior

ADDRESS 1185 Benson Court

TELEPHONE NUMBER 264-4966

NATURE OF GRIEVANCE I want to attend the auto mechanics course at the local vocational scool. The teacher has said that this is permissible because all courses are open to boys and girls. The problem is that I am required to produce a signed statement which states that upon successful completion of the course I will have a job waiting for me. When I asked why I needed this I was told that girls have a harder time getting jobs and that there are a lot of boys waiting to get into the program. I don't think that boys have to have the same kind of statement. If I have to do that, shouldn't the boys have to do it also?

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Dr. Tim Jamieson, Director, Valley View Vocational School

SIGNATURE OF GRIEVANT

Bernice Morgan, Title IX Coordinator
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant Worksheet 13

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Connie Jacobs

DATE OF FILING 10/18/76

SCHOOL OR POSITION Junior at Jamestown High School

ADDRESS 14 Woodside Lane

TELEPHONE NUMBER 449-7057

NATURE OF GRIEVANCE Last year I was absent from school for the last two weeks to have a baby. When I returned this fall, Mrs. Johnson told me I couldn't be on the cheerleading squad even though I was on last year because of a rule that girls who have been pregnant can't be in afterschool activities. There's a boy on the football team who brags all the time to everyone about his baby, and no one kicks him off the team even though the coach knows about it. It isn't fair.

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Mrs. Gloria Johnson, cheerleading squad advisor

SIGNATURE OF GRIEVANT

William Jefferson, Principal
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant Worksheet 14

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Angelo Scalva

DATE OF FILING 9/27/76

SCHOOL OR POSITION P.E. Teacher, Baker Junior High

ADDRESS 10023 Redfern Avenue

TELEPHONE NUMBER 794-3889

NATURE OF GRIEVANCE It's my understanding that physical education classes have to be coed to comply with Title IX. Although we have mixed male/female teaching teams, the girls end up at one end of the floor with the female teacher while the boys end up at the other end with the male teacher. It happens for both contact and non-contact activities. When I've asked the physical education department head about this, he indicated that Title IX was ridiculous and that our school has devised this way of getting around the regulation. I'm uncomfortable about my involvement in something which I believe is illegal. Is there any way to resolve this issue?

NAMES AND ADDRESS OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Joe Kennelsworth, P.E. Dept. Head

SIGNATURE OF GRIEVANT

Rod Meany, Principal, Baker Junior High
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

Participant Worksheet 15

SAMPLE TITLE IX GRIEVANCES

NAME OF GRIEVANT Evelyn Marcus

DATE OF FILING 10/18/76

SCHOOL OR POSITION P.E. teacher at Haller Junior High

ADDRESS 7840 South Villa Road

TELEPHONE NUMBER 770-5426

NATURE OF GRIEVANCE Because of the new Title IX regulations, our P.E. girls' and boys' departments have been consolidated in a unified department of physical education. The former boys' department chairman has been named head of the new department. The problem is that he has issued keys to the equipment room to male staff members only and has placed male staff in charge of supervising all classes (we teach in male/female teams), saying the men need the responsibility for discipline reasons. I think it's very unfair, but the chairman says Title IX doesn't cover administrative structures and it's my tough luck. I'm not a tenured teacher; how much can I push?

NAMES AND ADDRESSES OF OTHERS INVOLVED IN THE GRIEVANCE AND THE NATURE OF THEIR INVOLVEMENT

Mr. James Thompson, P.E. department chairman,
Haller Junior High

SIGNATURE OF GRIEVANT

Carlos Montoya, Principal
PERSON RECEIVING GRIEVANCE

RESOLUTION OF GRIEVANCE

(1) VIOLATION: __Yes __No (Please give the reasons for your decision.)

(2) CORRECTIVE ACTION RECOMMENDED:

(3) REMEDIAL MEASURES RECOMMENDED:

APPENDICES

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APPENDIX

A

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972— A SUMMARY OF THE IMPLEMENTING REGULATION

Introduction

Title IX of the 1972 Education Amendments is the first comprehensive Federal law to prohibit sex discrimination in the admission and treatment of students by education institutions receiving Federal financial assistance. Sex discrimination in the employment policies and practices of educational institutions is also prohibited. The intent of the law is to eliminate sex discrimination in the programs, policies, and administration of educational institutions. It reads:

> *No person in the United States shall, on the basis of sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.*

The implementing regulation for Title IX was issued by the Secretary of Health, Education, and Welfare in June, 1975. Its provisions may be grouped into five major sections—general provisions (contained in Subpart A of the regulation), which outline the general procedures required for ensuring nondiscrimination and compliance with the regulation; coverage provisions (Subpart B of the regulation), which identify the education institutions, programs, and activities covered by the regulation; admissions provisions (Subpart C of the regulation), which specify prohibitions of discrimination in the recruitment and admissions of students; provisions pertaining to the treatment of students in educational programs and activities (Subpart D of the regulation), which delineate the standards of nondiscrimination in student programs; and employment provisions (Subpart E of the regulation), which establish the requirements for nondiscrimination in employment.

Following is a summary of the regulation. It follows the sequence of the regulation itself; the number contained in brackets at the end of each summary paragraph refers to the section of the regulation from which the information is derived.

Two definitions contained in the regulation are of importance to users of this summary:

Recipient: The "recipient" referred to throughout the summary is defined as "any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives or benefits from such assistance." [§86.2(h)]

Federal financial assistance: Education agencies or institutions which receive any of the following are considered recipients of "Federal financial assistance" for purposes of Title IX:

- grants or loans from the Federal Government, including funds for:
    - —acquisition, construction, or renovation of buildings or facilities;
    - —scholarships, loans, grants, wages, or other funds extended for payment to or on behalf of students of the institution, whether paid to the institution or directly to students for payment to the institution.
- grants of Federal property
- provision of the services of Federal personnel
- any other contract, agreement, or arrangement which has as one of its purposes the provision of assistance to any education program or activity, except a contract of insurance or guaranty. [§86.2(g)]

Copies of the regulation have been supplied to all local education agencies and post-secondary institutions. Copies of the regulation may also be obtained from the Department of Health, Education, and Welfare, Washington, D.C. 20201.

TITLE IX—A SUMMARY OF THE IMPLEMENTING REGULATION

GENERAL PROVISIONS

Remedial action. In the event of a finding of sex discrimination by the Director of the Office for Civil Rights in an education program or activity of a Federally assisted institution or agency, the institution or agency may be required to take remedial action to overcome the effects of such discrimination. Such requirement would be specified by the Director. [§86.3(a)]

Affirmative action. In the absence of a finding of sex discrimination, a recipient education institution may take affirmative action to overcome the effects of conditions which resulted in limited participation by persons of a particular sex. [§86.3(b)]

Self-evaluation. Every education institution receiving Federal funds must, within one year of the effective date of the regulation:

- evaluate its policies and practices as to their compliance with the regulation;
- modify its policies and practices as necessary for compliance;
- take appropriate remedial steps to eliminate the effects of discrimination resulting from these policies and practices.

A description of any modifications and remedial actions taken must remain on file for at least three years following completion of the evaluation. [§86.3(c)]

Assurance required. Every application for Federal financial assistance for any education program or activity must as a condition of its approval, contain or be accompanied by an assurance form certifying compliance with the regulation. Forms will be supplied by the Office for Civil Rights, HEW. [§86.4]

Designation of responsible employee. Every recipient must designate at least one employee to coordinate compliance efforts and investigate any complaints of sex discrimination; all students and employees must be notified of the name, office address, and phone number of this employee. [§86.8(a)]

Grievance procedures. Every recipient must adopt and publish grievance procedures providing for resolution of student and employee complaints. (Utilization of these procedures is not a prerequisite for the filing of a complaint with the Office for Civil Rights, HEW.) [§86.9(a)]

Notification of policy. Recipients must take specific and continuing steps to notify applicants for admission, students, parents, employees, and all unions or professional organizations holding bargaining or professional agreements with the recipient of its compliance with Title IX. Initial notification was required by October 19, 1975. [§86.9(a)]

Publications. Recipients must include a policy statement of nondiscrimination on the basis of sex announcement, bulletin, catalog, application form, or other materials used in connection with the recruitment of students or employees. No publication should suggest, by text or illustration, that the recipient treats students, applicants, or employees differently on the basis of sex except as permitted by the regulation. [§86.9(b)]

COVERAGE

General. The regulation applies to every recipient and to each education program or activity operated by a recipient which receives or benefits from Federal financial assistance. (Information regarding judicial interpretation of this language is provided in the preamble to the regulation. In analogous cases regarding racial discrimination, courts have held that the education functions of a school district or college include any service, facility, activity, or program which it operates or sponsors, including athletics and other extracurricular activities. The Federal funds may be terminated upon a finding that "they are infected by a discriminatory environment.") [§86.11]

Exemptions from coverage include: educational institutions controlled by religious organizations, to the extent that compliance would not be consistent with religious tenets; military and merchant marine educational institutions; and social fraternities and sororities in post-secondary institutions, YM and YWCA's, Girl and Boy Scouts, Camp Fire Girls, and other voluntary youth service organizations. [§86.12, §86.13 and §86.14]

Coverage of the admissions provisions applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education, other than those which have been traditionally and continually single sex. This does not include first-degree professional and vocational programs offered at private undergraduate institutions. [§86.15]

TREATMENT OF STUDENTS IN EDUCATION PROGRAMS AND ACTIVITIES

General. All education institutions or activities receiving Federal financial assistance are subject to these regulatory requirements, including those whose admissions are exempt from coverage. This portion of the regulation requires that:

> *no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any academic, extracurricular, research, occupational training or any other education program or activity operated by a recipient.* [§86.31(a)]

It specifically provides that recipient institutions may not, on the basis of sex:

- provide different aid, benefits, or services;
- deny any person such aid, benefit, or service;
- subject any person to separate or different rules of behavior, sanctions, or other treatment;
- discriminate against any person in the application of any rules of appearance;
- apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state tuition;
- provide significant assistance (defined in the preamble to the Regulation as facilities or a faculty sponsor) to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefits, or service to students or employees;
- limit any person in the enjoyment of any right, privilege, advantage, or opportunity. [§86.31(b)]

Assistance administered by an institution for study abroad. A recipient institution may administer awards established by foreign or domestic legal instruments restricted to members of one sex which are designed to provide opportunities for study abroad provided the institution otherwise makes available reasonable opportunities for members of the other sex. [§86.31(c)]

Programs not operated by recipients. A recipient institution may not facilitate, require, permit, or consider as part of an activity or program it operates, participation by any applicant, student, or employee in a program not operated by the recipient which discriminates on the basis of sex. This includes participation in educational consortia and cooperative employment and student teaching assignments. [§86.31(d)]

Housing. A recipient may not, on the basis of sex, apply different rules or regulations, impose different fees or requirements, or offer different services or benefits related to housing. A recipient may provide separate housing on the basis of sex, provided that housing provided for students of one sex, when compared to that provided to students of the other, is as a whole proportionate in quantity to the number of students of that sex applying and comparable in quality and cost to the student. [§86.32(a)(b)]

A recipient which assists any agency or person in making housing available to its students must take reasonable action to assure itself that housing provided is proportionate in quantity

ADMISSIONS

The regulation requires that no person may, on the basis of sex, be denied admission or be subject to discrimination in admission by any recipient subject to the admissions provisions of Title IX. Specifically prohibited are:

- ranking applicants separately on the basis of sex;
- applying numerical limitations on the number or proportion of either sex who may be admitted;
- treating one individual differently from another on the basis of sex;
- administering any test or criterion for admission which has a disproportionately adverse effect on members of one sex unless such test or criterion is shown to validly predict success in the education program or activity and alternative tests are not available;
- applying any rule concerning the actual or potential parental, marital, or family status of a student whch treats persons differently on the basis of sex;
- discriminating against or excluding any person on the basis of pregnancy or related conditions (these must be treated as any other temporary disability);
- making pre-admission inquiry as to the marital status of an applicant. [§86.21(a), (b), (c)]

Discrimination in the recruitment of applicants for admission is also prohibited:

- preference may not be given nor may applicants for admission be recruited on the basis of attendance at an educational institution which is predominantly single sex unless the pool of applicants eligible for such preferences includes roughly equivalent numbers of males and females [§86.22];
- a recipient may not discriminate on the basis of sex in the recruitment of students unless additional recruitment efforts for members of one sex are undertaken as remedial or affirmative action. [§86.23(a)]

- apply any rule concerning eligibility for such assistance which treats persons of one sex differently from persons of the other with regard to marital or parental status;

- assist, through solicitation, listing, approval, or provision of facilities or services, any agency or person which provides assistance to a recipient's students in a manner which discriminates on the basis of sex. [§86.37(a)]

Recipients may administer financial assistance established by domestic or foreign instruments which require that awards be made to members of a specified sex provided that the overall effect of the awarding of such sex-restricted funds does not discriminate on the basis of sex. To ensure such nondiscriminatory effect:

- students must be selected for awards of financial assistance on the basis of nondiscriminatory criteria;

- an appropriate sex-restricted award should be allocated to each student selected;

- no student may be denied the award for which he or she was selected because of the absence of financial assistance designed for a member of that student's sex. (According to the preamble of the regulation, if there are insufficient sources of financial aid designated for members of a particular sex to provide funds for students of that sex selected, the institution is required to obtain the necessary funds from other sources or to award less assistance from the sex-restricted sources.) [§86.37(b)]

If a recipient awards athletic scholarships, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics. Separate athletic scholarships for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with the portion of the regulation dealing with athletics. [§86.37(c)]

Employment assistance to students. A recipient institution which assists any agency or person in making employment available to its students must assure itself that employment is made available without discrimination; it may render no services or assistance to agencies or individuals which discriminate on the basis of sex in employment practices. [§86.38]

Health and insurance benefits and services. Institutions may not discriminate on the basis of sex in providing medical, hospital, accident, or life insurance benefits, services, policies, or plans to any students. This does not prohibit a recipient from providing any benefit or service which may be used by a different proportion of students of one sex than of the other, including family planning services. Any recipient which provides full coverage health services must provide gynecological care. [§86.39]

Marital or parental status. A recipient may not apply any rule concerning a student's actual or potential parental, family, or marital status which treats students differently on the basis of sex. [§86.40(a)]

No student may be discriminated against or excluded from an education program or activity (including any class or extracurricular activity) on the basis of pregnancy or related conditions unless the student requests voluntarily to participate in a separate portion of the program or activity. [§86.40(b)] and comparable in quality and cost to students of both sexes. A recipient may not, on the basis of sex, administer different policies or practices concerning occupancy by its students of housing other than provided by the recipient. [§86.32(c)]

Facilities. A recipient may provide separate toilet, locker room, and shower facilities on the basis of sex; those provided for one sex must be comparable to those provided for the other. [§86.33]

Course offerings. Course offerings or other education activities may not be provided separately on the basis of sex, nor may participation therein be refused or required on such basis. Included are health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. [§86.34]

- With respect to physical education courses, institutions must comply with this requirement as expeditiously as possible but in no event later than one year from the effective date of the regulation at the elementary level and three years from the effective date of the secondary and post-secondary levels. Students may be grouped by ability in physical education classes and activities as long as ability is assessed by objective standards developed and applied without regard to sex. Students may be separated by sex within physical education classes during participation in contact sports. [§86.34(a)(b)(c)]

- Portions of classes in elementary and secondary schools which deal exclusively with human sexuality may be conducted separately for males and females. [§86.34(e)]

- Recipient institutions may make requirements based on vocal range or quality which result in choruses of one or predominantly one sex. [§86.34(f)]

Schools of vocational education. A local education agency may not, on the basis of sex, exclude any person from admission to any institution of vocational education or any other school or educational unit it operates unless it otherwise makes available to such person, pursuant to the same policies and criteria of admission, courses, services, and facilities comparable to each course, service and facility offered in or through such schools. [§86.35]

Counseling and counseling materials. Institutions may not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants. [§86.36(a)]

- Recipients may not use different materials for students on the basis of sex or use materials which permit or require differential treatment of students on such basis unless such materials cover the same occupations and interest areas and their use is shown to be essential to eliminate sex bias. Recipients must develop and use internal procedures for ensuring that counseling materials do not so discriminate. [§86.36(b)]

- Where a recipient finds that a particular class or course of study contains a substantially disproportionate number of individuals of one sex, the recipient must take such action as is necessary to assure itself that this disproportion is not the result of sex discrimination by counselors or in counseling materials. [§86.36(c)]

Financial assistance. Recipients may not, on the basis of sex:

- provide different amounts or types of financial assistance, limit eligibility for such assistance, or apply different criteria;

- A recipient may require a pregnant student to obtain a physician's certification of her physical and emotional ability for normal participation in the education program or activity if such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

- A recipient which operates a portion of its education program separately for pregnant students, admission to which is voluntary, must ensure that this program is comparable to the program offered to nonpregnant students.

- A recipient must treat pregnancy and related conditions in the same manner and under the same policy as any other temporary disability with respect to any medical or hospital benefit, service, or policy in which such recipient participates with respect to students. If there is no leave policy maintained for students, pregnancy and related conditions must be treated as justification for a leave of absence, after which a student shall be reinstated to the status she held before the leave began. [§86.40(b)]

Athletics. The general requirement of this section is that:

no person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by a recipient, and no recipient shall provide athletics separately on such basis. [§86.41(a)]

Separate teams may, however, be operated for members of each sex where:

- selection for such teams is based upon competitive skill; or

- the activity involved is a contact sport.

Where a recipient operates or sponsors a team in a particular sport for members of one sex but operates no such team for members of the other, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try out for the team offered unless the sport involved is a contact sport (boxing, wrestling, rugby, ice hockey, football, basketball, and other sports the major activity of which involves bodily contact). [§86.41(b)]

Equal opportunity for members of both sexes must be provided in interscholastic, intercollegiate, club, or intramural athletics operated or sponsored by a recipient. In assessing the availability of equal opportunity, HEW will consider, among other factors:

- whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

- provision of equipment and supplies;

- scheduling of games and practice time;

- travel and per diem allowance;

- opportunity to receive coaching and academic tutoring;

- assignment and compensation of coaches;

- provision of locker rooms, practice and competitive facilities;
- provision of housing and dining facilities and services;
- publicity.

Unequal aggregate expenditures for members of each sex or for male and female teams will not constitute noncompliance, but HEW may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity. [§86.41(c)]

All recipient institutions must comply as expeditiously as possible; elementary schools must be in full compliance with this section within one year from the effective date of the regulation, secondary and post-secondary schools within three years. [§86.41(d)]

Textbooks and curricular materials. Nothing in the regulation requires or prohibits the use of particular textbooks or curricular materials. [§86.42]

Recruitment. A recipient may not discriminate on the basis of sex in the recruitment and hiring of employees. When a recipient is found to be presently discriminating on the basis of sex (or to have so discriminated in the past), it will recruit members of the sex so discriminated against so as to overcome the effects of past or present discrimination. A recipient may not recruit primarily at entities which furnish as applicants predominantly members of one sex [§86.53]

Compensation. A recipient may not, on the basis of sex, make distinctions in rates of pay or other compensation which result in the payment of wages to employees of one sex at a rate less than that paid to employees of the other sex for equal work on jobs the performance of which requires equal skill, effort, and responsibility and which are performed under similar working conditions. [§86.54]

Job classification. A recipient may not:

- classify a job as being for males or females;
- maintain separate lines of progression, seniority lists, career ladders, or tenure systems based on sex;
- maintain separate lines of progression, etc., which classify persons on the basis of sex unless sex is a *bona fide* occupational qualification for the positions in question. [§86.55]

Fringe Benefits. Under this regulation, fringe benefits means any medical, hospital, accident, life insurance, or retirement benefit, service, policy, or plan, any profit-sharing or bonus plan, leave, and any other benefit or service of employment. A recipient shall not:

- discriminate on the basis of sex with regard to making fringe benefits available to employees, or make fringe benefits available to spouses, families, or dependents of employees differently upon the basis of the employee's sex;
- administer, operate, offer, or participate in a fringe benefit plan which does not provide *either* for equal periodic benefits or equal recipient contributions to the plan for members of each sex;
- participate in a pension or retirement plan which establishes different optional or compulsory retirement ages based on sex or which otherwise discriminates on such basis. [§86.57 (a)(b)]

Marital or parental status. A recipient may not:

- take any employment action concerning the potential marital, parental, or family status of an employee or applicant which treats persons differently on the basis of sex; or
- which is based upon whether an employee or applicant is the head of household or principal wage earner. [§86.56(a)]

Pregnancy. A recipient may not discriminate against or exclude from any employee or applicant on the basis of pregnancy or related conditions. Pregnancy and all related conditions must be treated as any other temporary disability for all job related purposes, including commencement, duration, and extensions of leave, payment of disability income, accrual of seniority and reinstatement, and under any fringe benefits offered to employees. If a recipient does not

EMPLOYMENT

General. All education institutions receiving Federal financial assistance must comply with the employment provisions of the regulation. In general, the regulation prohibits:

- exclusion from participation in, denial of the benefits of, or subjection to discrimination on the basis of sex of any person in employment, or recruitment, consideration, or selection thereof, whether full or part-time;
- the limitation, segregation, or classification of applicants or employees in any way which could adversely affect any employment opportunities or status because of sex;
- entrance by a recipient into any contractual or other relationship which directly or indirectly has the effect of subjecting employees or students to sex discrimination, including relationships with employment and referral agencies, with labor unions, and with organizations providing or administering fringe benefits to employees of the recipient;
- the granting of preferences to applicants for employment on the basis of attendance at a single sex educational institution, unless the numbers of each sex eligible for such preference are roughly equivalent. [§86.51(a)]

Specifically, discrimination is prohibited in:

- recruitment, advertising, and the process of application for employment;
- hiring, upgrading, promotion, tenure, demotion, transfer, layoff, termination, application of nepotism policies, right of return from layoff, and rehiring;
- rates of pay or any other form of compensation;
- job assignments, classifications, and structure, including position descriptions, lines of progression, and seniority lists;
- the terms of any collective bargaining agreement;
- granting and return from leaves of absence, leave for pregnancy and related conditions, leave for persons of either sex to care for children or dependents;
- fringe benefits;
- selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, selection for tuition assistance, sabbaticals and leaves of absence to pursue training;
- employer-sponsored activities, including social or recreational programs;
- any other term, condition, or privilege of employment [§86.51(b)]

Employment criteria. A recipient may not administer any test or other criterion for employment opportunity which has a disproportionately adverse effect on persons on the basis of sex unless it is shown to validly predict successful performance in the position in question and alternative tests or criteria are not available. [§86.52] maintain a leave policy for its employees, pregnancy and related conditions must be treated as a justification for a leave of absence without pay for a reasonable period of time, at the conclusion of which the employee shall be reinstated to the status which she held when the leave began, or to a comparable position, without decrease in rate of compensation or loss of promotional opportunities. [§86.57(b)(c)(d)]

Pre-employment inquiries. A recipient may not make pre-employment inquiry as to the marital status of an applicant for employment. A pre-employment inquiry as to applicant sex may be made, but only if such inquiry is made equally of applicants of both sexes and if the results of the inquiry are not used to discriminate. [§86.60(a)(b)]

Sex as a *bona fide* occupational qualification. Recipients may make employment decisions prohibited by the regulation provided they can demonstrate that sex is a *bona fide* occupational qualification which is essential for carrying out job responsibilities. Such action cannot be based on alleged characteristics or stereotyped characterizations of one or the other sex, or on preference based on sex of the recipient, employees, students, or other persons. This does not prevent consideration of an employee's sex in relation to employment in a locker room or toilet facility used only by members of one sex. [§86.61]

Note: Title IX coverage of employment practices has been at issue in the recent case of *Romeo Community Schools v. U.S. Department of Health, Education, and Welfare*. In this case, the Romeo, Michigan Community Schools sought to stop HEW from enforcing the Title IX regulation provisions regarding employee pregnancy and maternity leave. Although the opinion issued by U.S. District Judge Feikens in April 1977 concluded that Title IX was not intended to reach any of the employment practices of recipients, the judgment entered in May 1977 to implement the opinion declared invalid only that section of the Title IX regulation dealing with the marital and parental status (including pregnancy) of employees. Furthermore, the Office for Civil Rights has announced its decision to continue enforcement of Title IX regulatory requirements related to employment (including those related to pregnancy) as usual outside the jurisdiction of the U.S. District Court for the Eastern District of Michigan and to appeal the decision by Judge Feikens.

ENFORCEMENT PROCEDURES

Pending HEW's final issuance of a consolidated procedural regulation applicable to Title IX and other civil rights legislation administered by the Department, the procedures applicable to enforcement of Title VI of the Civil Rights Act of 1964 will be used to implement the regulation under Title IX. Under these existing procedures, complaints alleging violations of Title IX may be filed by letter to the Office for Civil Rights, Department of Health, Education, and Welfare, Washington, D.C. 20201 or to the appropriate Regional Office of the Department of HEW.

APPENDIX B

COMPONENTS OF A GRIEVANCE PROCEDURE

I. Provisions related to the initiation of grievances:

  A. The definition of who may grieve

  B. The definition of what shall constitute a grievance

  C. The stipulation of time limits for the initiation of grievances

  D. The stipulation of the manner or form in which grievances shall be initiated

  E. The specification of any assistance available to grievants for the initiation/presentation of a grievance

II. Provisions related to the processing of grievances:

  A. The number and levels of steps for grievance processing

  B. The form of grievance presentation or processing each step

  C. Requirements for notification of involved parties at various phases of the grievance process

  D. Timelines governing the various actions or steps within the grievance process

  E. Procedures which shall govern the conduct of grievance meetings or hearings at any step of the grievance process (e.g., the minimum time allocated for the grievance hearing; the time allocated to each party; the right of each party to representation; the right to present witnesses and evidence; the right to question opposing witnesses; the moderation of hearings; the right to confidential or public grievance hearings; procedures for recording the meeting or hearing)

F. Requirements for the filing or submission of written information by the grievant or the respondent

G. The specification of the forms which grievance decisions shall take at each step

H. The roles and/or selection of persons involved in grievance processing

III. Provisions related to the basic procedural rights of the parties to the grievance:

A. The grievant's right of appeal

B. The right of all parties to impartial grievance decisionmakers

C. The access of grievants to relevant agency/institutional records

D. Protection of grievants from harassment and retaliation

E. Confidentiality of grievance proceedings

APPENDIX

C

ANYONE'S GUIDE TO FILING A TITLE IX COMPLAINT *

Different treatment based on a person's sex in schools, colleges and other agencies receiving federal education aid is now illegal under federal law: Title IX of the Education Amendments of 1972.

The U.S. Department of Health, Education and Welfare (HEW) is charged with making sure that schools and colleges stop discriminating because of sex. But HEW's civil rights offices depend on citizens around the country to let them know when these institutions are not complying with the law.

If you think your school is treating students or employees unfairly because of their sex, you may want to go directly to the school authorities to ask for change. If that doesn't work and you decide to ask HEW for help, here's how to go about it.

Who can file a Title IX complaint?

Anyone--a group or an individual--can ask HEW to check into possible violations of Title IX. A student or an employee can file a complaint. So can a parent, an organization, or just a plain interested citizen. You don't have to be a victim of discrimination yourself to file a complaint.

If you think the institution you are citing might harass any one individual who files a complaint (this happens sometimes to employees), it's a good idea to have an organization send in the complaint instead.

Check in your area for organizations that might be able to press the case. Local chapters of organizations such as the National Organization for Women (NOW), the American Civil Liberties Union (ACLU), the American Association of University Women (AAUW), or the Women's Equity Action League (WEAL) might be good places to start.

Is there a deadline for filing a complaint?

Generally, you must file a Title IX complaint within 180 days after the discrimination occurs. If the discrimination is continuing--certain classes are closed to girls or boys, the athletics program for girls is inferior, and so on--you can send a complaint anytime.

Is there a required form for filing complaints?

No. You file by writing a letter to HEW's Office for Civil Rights explaining why you think your school district is violating the law. Sometimes an HEW office will send back a form to fill out, but a letter is always the place to start.

A recent court ruling laid out certain information which you need to include in a Title IX complaint in order for the complaint to be considered "complete". HEW does not have to act on your complaint unless you provide them with that information, so do take care to include all the necessary details.

Here's what must be in your letter.

> The name and address of the school district or institution you believe is discriminating on the basis of sex.
>
> The names and addresses of the people you think are suffering discrimination if there are three or fewer of these people. If you think a whole group is being discriminated against, explain generally what the group is (such as"girls in 6th grade gym at Wilson School" or "senior high school girls"). In the case of a group of more than three, you do not have to supply names and addresses.
>
> The approximate date the discrimination took place, and whether it's still going on.
>
> Enough information about the discrimination to enable HEW to start investigating, as well as any evidence you can offer.
>
> Your name, address and, if possible, a telephone number where you may be reached during the day.

In addition to these basic requirements, it's a good idea to include the name, address, and phone numbers of anyone else who may have more information regarding the case. Explain why you think HEW should talk to them and mention any other sources of information you think they should check.

If you think the complaint is an emergency--for instance, someone's about to lose his/her job or be suspended from school--say so very clearly. Underline it. This is important. It can mean that HEW may act faster. More on this in the section describing what HEW will do with your complaint.

Also, if you specifically request it, HEW is obliged to tell you its preliminary findings and allow you to present more evidence if you wish.

In any case, HEW must notify you of its final decision as to whether there was discrimination. Again, if you specifically request it, HEW must give you a copy of all correspondence with the school concerning the complaint.

You'll find a sample letter laying out all these points at the end of this article.

Where do I send the complaint?

Address your letter to the director of HEW's regional Office for Civil Rights with jurisdiction over your state.

You may also want to send copies to your representative in Congress, senators, the school board, local newspapers, and local organizations which might be interested--unless, of course, you'd prefer that your complaint is kept confidential.

Send PEER a copy of your complaint. Unfortunately, we can't help individual complainants get action. Much as we would like to, there just aren't enough of us at PEER to go around. But knowing what's going on around the country helps us push HEW for stronger enforcement.

What about privacy?

By law, HEW must keep the identity of the person or group who sent in a complaint confidential, unless this information must be disclosed during an investigation.

Even so, if you want your name withheld, it's a good idea to stress that in your letter to HEW. Ask HEW to let you know in advance if they do have to reveal your name.

Sometimes a school or school district accused of discrimination will try to discourage complaints by harassing a person who files one. If you think that could happen, do stress your need for confidentiality or ask an organization to file the complaint instead.

On the other hand, many people or groups who file complaints publicize it themselves, since bad publicity for the institution can sometimes prompt a quick end to an unfair practice--even before HEW has a chance to investigate.

What if there's more than one instance of discrimination?

If you believe there's a pattern of discrimination against girls and women throughout the school, school district or college, say so in your complaint. Describe each kind of discrimination you know about, and ask HEW to check them all.

Even if you just want to end one particular discrimination problem--someone's been barred from a course because of her sex, for instance--try to show it's not just an isolated incident. Your case will be stronger if you can show this instance is a part of a general pattern of discrimination against women and girls (or men and boys).

What will HEW do with the complaint?

Under a 1976 court ruling, HEW is supposed to investigate all Title IX complaints against elementary and secondary schools within certain deadlines. While the ruling only technically applies to 17 southern and border states, HEW has repeatedly promised to use the same deadlines in resolving elementary and secondary complaints in the other states too.

HEW does not have to meet these deadlines on complaints against colleges and universities.

Here's how the process works:

When HEW receives your complaint, it must write you back promptly acknowledging the complaint. If HEW thinks the complaint does not give enough information to begin investigating, the letter must tell you what additional information you need to send in.

Once HEW has all the needed information, it has 90 days to investigate the charges. By the end of that time, HEW should have written the school district stating its findings.

If HEW finds that there is discrimination, it has 90 more days to work out an agreement with the school district which will end the discrimination.

If HEW cannot negotiate an agreement with the school district to end the sex discrimination, then the government has 30 days to begin the formal enforcement proceedings which could result in cutting off federal funds to the school district.

There are shorter deadlines for action when the situation is so urgent that the complaint is an "emergency". Loss of a job or threat of expulsion might be situations qualifying as an emergency.

HEW can stretch these time limits a bit if a necessary witness is unavailable because of summer vacation, but it should not, under any circumstances, add more than 30 days after the end of the summer recess.

What happens if HEW is swamped by complaints?

It may happen that a particular HEW regional office will have too many Title IX complaints to handle within the new time limits. If this should happen, the regional office may postpone action on up to 20% of its total caseload until the next year. However, any postponed complaints must be investigated within the following year.

If you think HEW is slow acting on your complaint, don't hesitate to call or write them urging them to move faster. It can't hurt, and sometimes it can help to speed up the process.

Is it worth filing a Title IX complaint?

You are the only one who can really decide, but there are times when it can be very important.

> If you have been pressuring a school district to end sex biased practices and they have been slow

or resistant to change, then sometimes filing a Title IX complaint will prompt them to move more quickly.

When HEW does intervene, their word can carry weight. After all, they CAN cut off federal funds to the school district.

HEW is likely to devote greater energy and resources to enforcing Title IX when they know the public demands it. Complaints tell them the demand is there now.

---

* PEER, August, 1977.

APPENDIX C (continued)

SAMPLE LETTER FOR FILING A TITLE IX COMPLAINT

Regional Director
Office for Civil Rights, Region_______________
U.S. Department of Health, Education and Welfare
(Adress of your region)

Dear__________________________:

I/We are filing a complaint of sex discrimination under Title IX of the Education Amendments of 1972 against (name and address of school district, university, or other institution receiving federal education aid).

(The next paragraph should explain what person or group of people you believe is being discriminated against. If it's three or fewer people, give their names and addresses. If there are more than three, just describe them generally--"the girls in 6th grade gym classes" for example.)

(Follow this with as complete a description of the sex discrimination as you can. Make sure to tell what happened, when it happened and if the discrimination is still going on. Attach any evidence you may have which supports the complaint, such as letters, student handbooks, and so on. Name any people you think were responsible for the discrimination and their position in the school.)

(If the damage or potential damage caused by discrimination is an emergency, say so. Underline it.)

The following people have agreed to provide further information to your staff. (Here, list the people willing to talk to HEW. Explain how they can provide valuable information relating to your complaint, and tell HEW where they can be reached. If their names must be kept confidential, note this as well.)

I/We ask that you investigate this complaint immediately and notify me/us of the time the investigation will take place. In addition, please send me/us copies of all written preliminary findings of the case and a copy of all HEW's correspondence with the school district.

Sincerely,

Name
Address
Daytime phone number, unless
you prefer not to receive
calls on the case at work.

If you are sending copies of your complaint to other persons, list them below.
For example:

cc: School Board
Senators
Members of Congress
Governor
State Legislators
National Organizations
Newspapers
PEER

APPENDIX D

DEFINITIONS

A sex role stereotype is the assumption that the male half of our population has in common one set of abilities, interests, values, and roles; and the female half of our population has in common another set of abilities, interests, values, and roles. Sex role stereotyping reflects oversimplified attitudes about males and females. It completely ignores individual differences. For example, the belief that all or most boys are good in math and science is a sex role stereotype. The belief that all or most girls are quiet and passive is another sex role stereotype.

Sex bias is the tendency to presuppose or make assumptions based on limited information or stereotyped images of males and females. Biases, like stereotypes, can be detrimental when acted upon in situations like couseling or hiring practices. While NEITHER stereotyping nor bias IN THEMSELVES constitute discrimination or a violation of Federal regulations, they may set the stage for discriminatory behavior.

Sex discrimination is the denial of opportunity, privilege, role, or reward on the basis of sex. When a school practices sex discrimination, it excluded persons or treats them differently on the basis of sex. Discrimination may affect either males or females. A school policy that allows only girls to take home economics is one example of sex discrimination; one that gives boys first choice of athletic activities is another.

Corrective action is an action taken to modify a discriminatory policy, program or practice to attain its compliance with Title IX requirements.

Remedial measure is a measure taken to overcome the effects of the discriminatory policy, program or practice.

APPENDIX E

SUGGESTED ANSWERS TO CASE STUDIES DISCUSSION QUESTIONS

1. Laws violated are Title VII and Title IX.
2. Ms. Ramirez could file a complaint under Title VII or Title IX. She may bring civil suit under the 14th Amendment, charging unequal treatment under the laws.
3. With documentation, logs, dates, and a medical certificate, Ms. Ramirez could show unfair treatment.

CASE STUDY 2

1. The missing elements are questions related to the job description.
2. The only permissible concern is the questions related to travel.
3. All questions except the one related to travel are illegal as they do not relate to the job description.

CASE STUDY 3

1. Section 86.41 of the Title IX regulations supports the coed soccer team.
2. If adequate supervision is provided, the athletic director is not liable nor negligent.
3. The parents would probably not win a suit if brought against the district.

CASE STUDY 4

1. Yes, the parent's request is valid.
2. The mother should contact the principal and/or superintendent.
3. a. The Title IX grievance committee would warn the district to allow the opportunity for the female because of previous discriminations in course offerings.

b. An investigation would begin asking the district to show that opportunities for females had not been limited in the past.

c. A Title VI complaint would probably bring the result that the district would be directed to make room for the female student.

CASE STUDY 5

1. The Title IX coordinator would outline, for the teacher and the principal, that equal opportunity includes use of cars and all facilities as in 86.41 (c).

2. The principal should take steps to assure that boys and girls are treated to the same benefits of transportation.

3. Girls are being discriminated against if the policy remains unchanged. A strong message is being sent to the female coach and to the female participants that the interests of girls would not receive the attention of school officials.

APPENDIX

F

SAMPLE TITLE IX GRIEVANCES

ANALYSES

In each instance, the answers provided are based on the assumption that the information provided in the grievance has been confirmed.

Julio Vargas: Violation of Title IX? Yes.

The failure to notify students, employees, and parents of elementary and secondary students regarding Title IX compliance policies would be a violation of the Title IX regulation. If the other procedural requirements--designation of a compliance officer, development of a grievance procedure, and completion of an institutional self-evaluation--have not been completed, these would also be Title IX violations. 86.9, 86.8, 86.3(c).

Corrective actions:

> Develop a policy statement regarding nondiscrimination and Title IX compliance and notify all students, employees, and parents of this policy.
>
> Designate a compliance officer who is responsible for coordinating efforts to comply with Title IX.
>
> Develop a written grievance procedure for processing Title IX complaints and notify all students and employees of its existence.
>
> Complete an institutional self-evaluation.

Remedial measures:

> Provide workshops for all personnel to inform them of Title IX requirements.
>
> Provide briefings or workshops for school board members to inform them of Title IX requirements and their legal responsibilities for compliance.

Friends of Education: Violation of Title IX? No.

The Title IX regulation specifically exempts coverage of textbooks and instructional materials and cites the First Amendment's guarantee of freedom of expression as a possible conflict. The preamble to the regulation, however, recognizes the problem of sex bias in textbooks and instructional materials and urges state and local education agencies to take appropriate actions.

It should also be noted that the Title IX regulation does not require the extension of the grievance procedure beyond students and employees, but a local education agency may wish to permit community groups to use the local grievance procedure.

Flo Perkins: Violation of Title IX? Yes.

Job classifications may not be sex designated unless a bona fide occupational qualification (BFOQ) based on sex is involved (e.g., locker room attendants). Two factors mitigate against a BFOQ in this case: a) replacing light bulbs is not a major activity of the janitor's job, and b) it has not been established that women cannot replace light bulbs. Title IX violation under section 86.61.

Corrective actions:

> Ensure that Ms. Perkins is given fair consideration for the next available janitorial position.
>
> Modify the job classification to eliminate sex differentiation.

Remedial measures:

> Notify all personnel currently occupying matron or janitorial positions of the change in policy.
>
> Review all job classifications and modify them as necessary to eliminate sex differentiation.
>
> Review all job announcements and position descriptions to ensure nondiscrimination.
>
> Develop written statements of skill requirements for all positions and provide all applicants the opportunity to be tested according to these job-related criteria.

Nancy Holgate-Wilson: Violation of Title IX? Yes.

The selective harassment of students on the basis of sex would be a violation of the Title IX regulation, sections 86.31(b)(1-4(8), 86.34.

Corrective actions:

Inform metals class instructor, Bob Hawker, that his behavior violates the Title IX regulation and instruct him to cease his harassment of female students.

Inform Vennie Lawrence that Bob Hawker has been instructed to cease his harassment and that she may notify the principal if she is harassed again.

Provide Vennie Lawrence the opportunity to transfer to another metals shop class.

Develop and disseminate a policy statement regarding teachers' responsibilities for nondiscriminatory treatment of students.

Remedial measures:

Make a survey to identify those female students who have been interested in metals class or in other sex-segregated courses. Encourage these students to enroll in such classes if they are still interested.

Develop and disseminate guidelines to instructional staff regarding nondiscriminatory treatment of students on the basis of sex.

Provide relevant in-service training programs for instructional personnel.

Provide all students with information and counseling regarding the changing roles of women and men in the world of work and in other life areas, and the importance of considering a variety of course options, both traditional and nontraditional.

Katrina Breedlove: Violation of Title IX? Yes.

The use of sex differentiated criteria for admission to a vocational school or program is prohibited by the Title IX regulation. 86.21(b)(2)

Corrective actions:

Admit Katrina Breedlove to the auto mechanics course without a statement of job availability (or require that males students also produce a signed statement of a job opportunity in order to be admitted).

Prepare and disseminate to all relevant staff a policy statement regarding nondiscriminatory standards for admissions in vocational education schools and courses.

Remedial measures:

Survey all women in the school (or feeder schools) to identify any interested female students who have been denied admission or discouraged from enrollment in auto mechanics due to the job opportunity guarantees requirement. Females who are identified as having been denied/discouraged from enrollment should be contacted to ascertain current interest and provided opportunity for enrollment in auto mechanics.

Inform all students of their equal opportunity to enroll in auto mechanics and other vocational education courses.

Connie Jacobs: Violation of Title IX? Yes.

Rules which mandate or permit differential treatment of male and female students on the basis of their marital or parental status would be in violation of the Title IX regulation. 86.40(b)(2)

Corrective actions:

Reinstate Connie Jacobs as a member of the cheerleading squad.

Develop a policy regarding the nondiscriminatory treatment of male and female students on the basis of their marital or parental status in all curricular and extracurricular activities.

Remedial measures:

Develop and disseminate to all staff guidelines for ensuring nondiscriminatory treatment of male and female students with regard to their marital or parental status.

Survey staff to ensure that other students have not been denied opportunities in extracurricular activities on the basis of the previous policy regarding parental status. If any instances are identified, inform these students of their right to participate in extracurricular activities.

Angelo Scalva: Violation of Title IX? Yes.

Providing parallel sex-segregated activities in coeducational classes would not meet the requirements for integrated physical education courses. Students may be segregated on the basis of sex only for those portions of the class which are devoted to contact sports. In addition, sexually disproportionate groupings which result from the application of appropriate, objective tests of ability are permitted. 86.34 (a-c)

Corrective actions:

Issuance of a policy directive requiring:

Integration of activities for male and female students during physical education classes except during participation in contact sports.

Assignment of female and male teachers on the basis of skills rather than on the basis of sex.

Remedial measures:

Development and dissemination of policy guidelines regarding student grouping and assignment of staff in coeducational physical education classes.

Review of physical education curriculum to ensure provision of a sufficient variety of activities to meet the needs of all students.

Evelyn Marcus: Violation of Title IX? Yes.

Assignment of supervisory responsibility on the basis of sex and the issuance of keys to male staff only would be discriminatory. The Title IX regulation does not prescribe any specific administrative structure, but no structure may be used which results in a disparate effect on employees of one sex. 86.51(a) , 86.55(a) .

Corrective actions:

Require the department chairperson to provide keys to all personnel with legitimate need for access to equipment.

Require the department chairperson to delineate the requirements for supervision of physical education classes and assign staff to supervisory responsibility on the basis of their qualifications rather than on the basis of sex.

Remedial measures:

Provide physical education staff guidelines for the nondiscriminatory assignment and treatment of staff.

Provide relevant in-service training to all physical education staff.

1978 - 1980 EDUCATIONAL PRIORITIES

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AS ADOPTED BY THE COLORADO STATE BOARD OF EDUCATION

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